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MEETING
STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
PERMITTING AND ENFORCEMENT COMMITTEE

JOE SERNA, JR., CALEPA BUILDING
1001 I STREET
2ND FLOOR
COASTAL HEARING ROOM
SACRAMENTO, CALIFORNIA

MONDAY, NOVEMBER 6, 2006
10:00 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMITTEE MEMBERS

Ms. Rosalie Mulé, Chairperson

Ms. Cheryl Peace

Ms. Pat Wiggins

BOARD MEMBERS

Mr. Jeffrey Danzinger

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Elliot Block, Acting Chief Counsel

Mr. Howard Levenson, Deputy Director

Mr. Michael Bledsoe, Senior Staff Counsel

Ms. Bridget Brown

Mr. Mark de Bie, Manager, Permitting and Inspection Branch

Mr. Alan Glabe

Ms. Virginia Humphreys

Mr. Steve Levine, Staff Counsel

Mr. Bill Marciniak

Ms. Dianne Ohiosumua

Mr. Scott Walker, Manager, Remediation, Closure &
Technical Services Branch

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Dennis Ferrier, City of San Jose Local Enforcement
Agency

Mr. Bob Henry, Kettleman Hills Facility

Mr. Tim Miller, City of San Diego

Mr. Alberto Ramirez, Torres Martinez Tribe

Mr. Clancey Tenley, U.S. EPA Region 9

Mr. Stan Uyehara, Los Angeles County Local Enforcement
Agency

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INDEX	PAGE
Roll Call And Declaration Of Quorum	1
Public Comment	103
A. Deputy Director's Report	2
B. Consideration Of Scope Of Work For The Study To Identify Potential Long-Term Threats and Financial Assurance Mechanisms For Long-Term Postclosure Maintenance and Corrective Action At Solid Waste Landfills (Integrated Waste Management Account, FY 2006/07) -- (November Board Item 10)	6
Motion	14
Vote	15
C. Consideration Of Scope Of Work And Contractor For The Landfill-Based Anaerobic Digestion Compost Pilot Project Contract (Integrated Waste Management Account, FY 2006/07) -- (November Board Item 11)	15
Motion	23
Vote	23
D. Consideration Of New Projects For The Solid Waste Disposal And Codisposal Site Cleanup Program (Solid Waste Disposal Trust Fund, FY 2006/07) -- (November Board Item 12)	23
Motion	64
Vote	64
E. Consideration Of A Revised Full Solid Waste Facilities Permit (Transfer/Processing Facility) For Athens Services, Los Angeles County -- (November Board Item 13)	65
Motion	78
Vote	79
F. Consideration Of A Revised Full Solid Waste Facilities Permit (Transfer/Processing Facility) For The Greenwaste Recovery Facility, Santa Clara County -- (November Board Item 14)	79
Motion	92
Vote	92

INDEX CONTINUED

PAGE

G. Consideration Of A Revised Full Solid Waste Facilities Permit (Transfer/Processing Facility) For The Heap's Peak Transfer Station, San Bernardino County -- (November Board Item 15)	92
Motion	94
Vote	94
H. Consideration Of A New Full Solid Waste Facilities Permit (Disposal Facility) For Chemical Waste Management, Inc., Kettleman Hills Facility, (MSW Landfill B-17), Kings County -- (November Board Item 16)	95
Motion	102
Vote	102
I. PULLED Consideration Of A Revised Full Solid Waste Facilities Permit (Disposal Facility) For Potrero Hills Landfill, Solano County -- (November Board Item 17)	
Adjournment	103
Reporter's Certificate	104

1 PROCEEDINGS

2 CHAIRPERSON MULÉ: Good morning, everyone.

3 Welcome to the November 6th meeting of the Permitting and
4 Enforcement Committee.

5 We have agendas on the back table if anybody
6 needs them. And also if you would like to speak to any
7 item, please fill out a speaker request form and bring it
8 up to Donnell.

9 And also if you would please put your cell phones
10 and pagers in the silent or off mode. Thank you very
11 much. We appreciate that.

12 With that, Donnell, would you please call the
13 roll.

14 SECRETARY DUCLO: Members Peace?

15 COMMITTEE MEMBER PEACE: Here.

16 SECRETARY DUCLO: Wiggins?

17 Chair Mulé?

18 CHAIRPERSON MULÉ: Here.

19 I understand that Board Member Wiggins is on her
20 way and will be here shortly. So we will hold any votes
21 open for her.

22 Do we have any ex partes, Board Member Peace?

23 COMMITTEE MEMBER PEACE: I'm up to date.

24 CHAIRPERSON MULÉ: And I'm up to date as well.

25 Okay let's continue with our Deputy Director's

1 report.

2 Oh, yeah. We do have a special guest here today.

3 Corinna, Bendan Blue's daughter, is here to observe the
4 process. So, everybody, be on your best behavior today.

5 Welcome, and thank you for being here.

6 Okay. Howard.

7 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
8 Chair. And good morning, Member Peace. Howard Levenson,
9 Deputy Director for Permitting and Enforcement. And I
10 have a few items as part of my Deputy Director's report
11 that I'd like to let you know about.

12 First of all, I want to let you know we had a
13 workshop just last week on hydrogen applications from
14 landfill use. This was conducted by the University of
15 California at Davis under a contract to the Waste Board.
16 They're studying the feasibility of producing hydrogen
17 from landfill gas.

18 This was the second workshop under the contract
19 and it focused on the technical and economic aspects of
20 producing hydrogen as a vehicle fuel and also the
21 possibility of using hydrogen to enrich landfill gas so
22 that it burns more cleanly when it goes through an
23 internal combustion engine or other processes.

24 The final report from U.S. Davis is due to us
25 late this year. And after that, we'll summarize the

1 report and put together an agenda item to bring back to
2 the Committee or to the Board with a summary of findings
3 and potential recommendations for your discussion and
4 consideration.

5 So we're very pleased that that's making
6 progress.

7 Last week, moving to another subject, staff from
8 both Permitting and Enforcement Committee and the --
9 Permitting and Enforcement Division -- excuse me -- and
10 the Waste Prevention and Market Development Division met
11 with representatives from SMUD to discuss their Leftovers
12 to Lights project. We didn't talk about annexation or
13 anything like that, but just the possibility of using food
14 waste and other organic materials to produce renewable
15 energy, which SMUD would be interested in being a
16 purchaser of. There's been -- SMUD sponsored a number of
17 technical studies on this issue, and they're looking for
18 potential partners.

19 We've been in some discussions with Sac County
20 about the possibility of include an anaerobic digestion
21 mine or sub-pilot at their upcoming green waste composting
22 facility. And they have haven't committed to that at all,
23 but we're trying to pursue that kind of idea for that kind
24 of public-private relationship.

25 Third thing I'd like to tell you about is that --

1 and maybe I should save this till Member Wiggins is here.
2 But we did finish the cleanup of the Ruth site, the tire
3 site in Del Norte County. This was a cleanup project that
4 was approved in August of 2006. It had three unpermitted
5 junk yards, a lot of vehicles, heavy equipment, hundreds
6 of tires, mobile homes, wooden structures, propane
7 tanks -- just name it. The list goes on and on in terms
8 of what was at that site.

9 The sites had been referred to the Solid Waste
10 Cleanup Program way back in July of 2005 from our tire
11 folks. So that that reflected the kind of working
12 relationship that we've been fostering over the last
13 couple of years between the tire cleanup folks and the
14 solid waste cleanup folks.

15 We started the cleanup in late September and was
16 completed on October 21st. The final cost of the project
17 is still being tallied. But it's probably going to be
18 below the \$500,000 that was authorized by the Board. And
19 then we have a lien on the properties, and so we'll be
20 pursuing cost recovery as part of that.

21 I do want to note that this is one of those cases
22 where we couldn't do this without the help of a number of
23 other folks. We had three inspection and abatement
24 warrants issued by the Del Norte county superior court.
25 We had -- David Mason from the County's Enforcement Office

1 helped us obtain the warrants. And then we had the
2 Highway Patrol providing site security. And that was as
3 part of the contract that we have with the -- the Special
4 Waste Division has with the CHP to do various tasks for
5 us.

6 So it was a great project. It was also Mustafe
7 Botan's first cleanup project. And so I want to
8 congratulate him for doing a great job running that
9 project.

10 The last thing that I'd like to mention before we
11 turn to the agenda is just that there are a couple of
12 grant solicitations that are -- one is out and one is
13 forthcoming that folks should be aware of.

14 The Energy Commission under its Public Interest
15 Energy Research Program has put out a grant solicitation
16 for bio-fuels research, development, and demonstration
17 projects. And I believe the amount available is \$3
18 million. We just got notice of this last week. It's gone
19 out on the list serve. Our Office of Local Assistance is
20 going to be distributing this information. And Jon Myers
21 from our Public Affairs will be putting this on the
22 Board's home page. So there's some monies available for
23 demonstration projects.

24 Also, we've been working with the Air Resources
25 Board pursuant to AB 1811. The Air Board got a one-time

1 funding of \$25 million for vehicle, fuel and bio-fuels
2 production facility grants. They expect to have that
3 solicitation out on the streets in January. And that we
4 also will advertise. That's a \$25 million pot. About \$5
5 million of that is going to be made available for
6 bio-fuels production facilities. And we are working with
7 the Air Board and will be part of the scoring panel for
8 that in trying to get that out on the streets and
9 executed.

10 So there are some funding opportunities opening
11 up for some of the kinds of projects that the Board has
12 been interested in. And we'll continue to let you know
13 when those are available.

14 With that, I'm finished with my Deputy's report,
15 and be happy to answer any questions.

16 CHAIRPERSON MULÉ: Thank you, Howard. And
17 especially thank you for providing us with information on
18 the grant solicitations. I think it's a good opportunity
19 for us to know what other public agencies are out there
20 doing and to spread the word about funding opportunities
21 for research projects.

22 Do you have any questions, Board Member Peace.

23 COMMITTEE MEMBER PEACE: No, I don't.

24 CHAIRPERSON MULÉ: Okay. With that, let's just
25 move into the agenda. Our first item is Committee Item B,

1 Board Agenda Item 10.

2 Howard.

3 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
4 Chair. This item is entitled "Consideration of Scope of
5 Work for the Study to identify Potential Long-Term Threats
6 and Financial Assurance Mechanisms for Long-Term
7 Postclosure Maintenance and Corrective Action at Solid
8 Waste Landfills." Quite a mouthful there.

9 I'm very pleased that we're bringing this to you.
10 As you know, and Bridget Brown to my right will be talking
11 in a little bit more detail, this is a policy area, a
12 policy arena that the Board has been conducting workshops
13 on for several years. And in July staff brought an item
14 before the Committee and Board and received direction to
15 both initiate a rule-making on certain aspects of this
16 issue, as well as to put together a study for the
17 longer-term corrective action issues and how to deal with
18 those.

19 At the same time, legislation was enacted by --
20 authored by Assemblywoman Montaez that pretty much had
21 the same thrust to its intent.

22 So we're here today with the scope of work for
23 your consideration. And if you do approve it, then we
24 would issue this as a competitive request for proposals.

25 I've probably stolen some of what Bridget was

1 going to say. But I don't think it hurts to reiterate.

2 This is an important study.

3 So with that, I'll turn it over to Bridget Brown,
4 who is managing this project for us.

5 CHAIRPERSON MULÉ: Good morning.

6 MS. BROWN: Good morning, Madam Chair and Member
7 Peace.

8 At its September 12th, 2006, meeting, the Board
9 approved a Fiscal Year 2006-2007 allocation proposal
10 entitled "Financial Assurance Mechanisms for Long-term
11 Corrective Action at Closed Solid Waste Landfills."
12 Today's item is a request for approval of the scope of
13 work to implement this concept, specifically a study to
14 identify potential long-term threats and financial
15 assurance mechanisms for long-term postclosure maintenance
16 and corrective action at solid waste landfills.

17 The scope of work will subsequently be issued as
18 part of a request for proposal under the competitive
19 contracting process.

20 This concept focuses on the issue of who will
21 pay, and how, for postclosure maintenance and corrective
22 actions after the first 30 years of postclosure
23 maintenance.

24 Currently operators are only required to provide
25 financial assurance for that first 30 years. The Board

1 has been exploring this in public workshops and working
2 group meetings for over two years. And in July of this
3 year, the Board directed staff to 1) begin a rule-making
4 on selective aspects of current closure and post-closure
5 maintenance requirements and 2) conduct a study on the
6 long-term issue; for example, what happens after 30 years?

7 At about the same time Assemblymember Cindy
8 Montaez author Assembly Bill 2296, which was signed by
9 the Governor on September 27th, 2006. Among other things,
10 this bill requires the Board to conduct a study to define
11 the conditions that potentially affect solid waste
12 landfills, including technologies and engineering controls
13 designed to mitigate potential risks, and to identify
14 potential long-term threats to public health and safety
15 and the environment; conduct a study on various financial
16 assurance mechanisms that would protect the state from
17 long-term postclosure maintenance and corrective action
18 costs in the event that a landfill owner or operator fails
19 to meet its legal obligations to fund postclosure
20 maintenance or corrective action during the postclosure
21 period; and adopt regulations and develop recommendations
22 for needed legislation to implement the findings of the
23 study on or before July 1st, 2009.

24 Consistent with the legislation, in general the
25 study will:

1 Identify the availability and applicability of
2 financial assurance mechanisms that could be used to cover
3 long-term postclosure maintenance as well as known or
4 reasonably foreseeable corrective actions at solid waste
5 landfills;

6 Assess the pros and cons of various financial
7 options to provide for the longer-term care and/or
8 corrective actions based at facilities to mitigate
9 potential future costs to the state; and

10 To provide a substantial basis for evaluating the
11 potential application of these options to different
12 landfills' defined potential threats to public health and
13 safety or the environment posed by the location and
14 conditions of different landfills as well as possible
15 positive aspects of landfill's construction and
16 containment techniques and materials which could impact
17 long-term threats to public health and safety or the
18 environment.

19 Board staff has further clarified the scope to
20 include long-term postclosure maintenance and corrective
21 action for active and closed landfills.

22 Due to the expertise required for this study, the
23 Board's contracting staff recommends using the secondary
24 RFP method for determining the contractor. Staff will
25 return to the Board after all proposals have been

1 evaluated with the recommendations for a contractor for
2 the study.

3 Once the contractor has been selected, Board
4 staff will consult with stakeholders, including
5 representatives of the League of California Cities, the
6 County Supervisors Association of California, private and
7 public waste service, and environmental organizations, to
8 solicit comments regarding the study. Based upon the
9 results of this study, staff will then return to the Board
10 with viable options and recommendations for Board
11 consideration regarding postclosure maintenance and
12 corrective action financial assurance requirements.

13 Staff recommends Option 1, approve the scope of
14 work for the study and adopt Resolution No. 2006-198.

15 Thank you.

16 CHAIRPERSON MULE: Thank you very much, Bridget.

17 Do we have any questions for Bridget or Howard?

18 Board Member Peace.

19 BOARD MEMBER PEACE: Well, I really don't have
20 any questions. Just that we all know that landfills can
21 pose a threat to the environment and the public health and
22 safety for a lot longer than 30 years, and the state
23 shouldn't be the one holding the bag for the costs, you
24 know, that would be incurred by, you know, something
25 that -- a catastrophe of some kind. So this project is

1 really important. And I'm really happy that we are moving
2 forward on this.

3 And we did get a comment -- this letter from
4 Peter Anderson. He said he couldn't be here today. But
5 if he comes up and meets with you or whatever next week
6 and he has some really good idea that you think should be
7 in this, is it possible to still include that?

8 DEPUTY DIRECTOR LEVENSON: Member Peace, I did
9 talk with Peter this morning.

10 BOARD MEMBER PEACE: Oh, you did. Okay.

11 DEPUTY DIRECTOR LEVENSON: So I got some
12 clarification on his e-mail, which basically said he had a
13 comment but didn't tell us what it was.

14 BOARD MEMBER PEACE: Right. Exactly.

15 (Laughter.)

16 DEPUTY DIRECTOR LEVENSON: Peter was concerned
17 that the -- in terms of who might be awarded this
18 contract, that there might be too much emphasis on the
19 quantification of threats and risks at the landfills, as
20 opposed to focus on the financial instruments being
21 involved. And I indicated to him that this was something
22 that, you know, we have to develop scoring criteria and a
23 budget breakout that doesn't become public until the
24 request for proposals is released.

25 But certainly it's -- you know, the focus of this

1 is to both follow Board direction and also be consistent
2 with AB 2296. And the overall intent is really to look at
3 the financial side. But we need to have the -- not an
4 assessment of every landfill. We're not doing that as
5 part of this study. But kind of the schemata for how we
6 would be looking at risks at different landfills: Should
7 a pooled option be developed or should there be an
8 insurance mechanism? So, you know, I conveyed that to
9 him. I don't know if he'll be following up further. But
10 that was the substance of his comment.

11 COMMITTEE MEMBER PEACE: So how are you going to
12 pick which landfills you evaluate?

13 DEPUTY DIRECTOR LEVENSON: Well, this is really
14 more of a method for looking at what kinds of criteria
15 would be -- should be included in a protocol for looking
16 at risks, how would you go ahead and qualitatively rank
17 landfills as high risk, medium risk, low risk. We might
18 have to pick a few landfills to test that on.

19 But the intent here is not to come up with a
20 ranking of the 280-odd landfills that are subject to
21 Subtitle D regulations, but more to develop that schemata
22 that we then would have to use if the Board told us to.
23 We'd have to do that more detailed in regulations
24 subsequent to the study.

25 COMMITTEE MEMBER PEACE: So just look at all the

1 different things that could -- the different criteria,
2 such as if the landfill is next to a earthquake fault or
3 if it's next to --

4 DEPUTY DIRECTOR LEVENSON: -- proximity to
5 population receptors --

6 COMMITTEE MEMBER PEACE: -- or it could be
7 possible flooding and --

8 DEPUTY DIRECTOR LEVENSON: -- earthquakes,
9 aquifers, levees, whatnot. Things like that.

10 COMMITTEE MEMBER PEACE: Okay. Thank you.

11 CHAIRPERSON MULÉ: Also too I'd like the record
12 to reflect that we did receive a letter from Alan Abbs at
13 the Tehama County Sanitary Landfill Agency. So I just
14 want to make sure that we have that in the record.

15 And do we have any other questions?

16 With that, do I have a motion to approve the
17 scope of work?

18 COMMITTEE MEMBER PEACE: Yes, I am very happy to
19 move Resolution No. 2006-198.

20 CHAIRPERSON MULÉ: And I will second that since
21 our Committee Member, Pat Wiggins, just arrived, and I
22 won't put you on the spot.

23 I will second Resolution 2006-198.

24 And let the record reflect that Board Member
25 Wiggins has arrived. She is here. And I'm sure she's all

1 up to date on ex partes.

2 Are you up to date on ex partes?

3 COMMITTEE MEMBER WIGGINS: Yes.

4 CHAIRPERSON MULÉ: Okay. Pat, we just
5 approved -- or we just moved and seconded Item 10,
6 Resolution 2006-198. It's the scope of work for the
7 potential long-term threats and financial assurance
8 mechanisms for long-term postclosure maintenance and
9 corrective action at solid waste landfills.

10 I'll give you a second. Item 10.

11 COMMITTEE MEMBER WIGGINS: I second.

12 CHAIRPERSON MULÉ: Okay. Donnell, would you
13 please call the roll.

14 SECRETARY DUCLO: Members Peace?

15 COMMITTEE MEMBER PEACE: Aye.

16 SECRETARY DUCLO: Wiggins?

17 COMMITTEE MEMBER WIGGINS: Here.

18 SECRETARY DUCLO: Chair Mulé?

19 CHAIRPERSON MULÉ: Aye.

20 Okay. That passes unanimously. And we'll put
21 that on consent for the full Board.

22 Thank you very much.

23 Okay. Our next item is Committee Item C, Board
24 Agenda Item 11.

25 Howard.

1 DEPUTY DIRECTOR LEVENSON: Thank you, Madam

2 Chair.

3 This item is the Consideration of a Scope of Work
4 and Contractor for the Landfill-Based Anaerobic Digestion
5 Compost Pilot Project Contract, funded by the Integrated
6 Waste Management Account, Fiscal Year 2006-2007.

7 And I'd like to make a couple of introductory
8 remarks to put this in context. This is requesting your
9 consideration of both a scope of work and the actual award
10 of a contractor for an innovative approach to managing
11 organic materials. It's one of a suite of allocation
12 proposals that was approved by the Board in September that
13 support both the Board's efforts to go beyond 50 percent
14 and also its participation in activities such as the
15 Bio-energy Working Group.

16 At the broad policy level the allocation concepts
17 approved by the Board in September certainly within the
18 primary missions of diverting solid waste and protecting
19 public health and safety also show how the Board can
20 support and mesh with other societal goals such as the
21 reduction of greenhouse gas emissions and the production
22 of renewable fuels and energy.

23 I think -- the obvious statement is that organics
24 are a huge part of the waste stream. And we all recognize
25 their importance, as well as the many challenges that

1 local jurisdictions and the organics industry face in
2 siting or even expanding these new facilities. In some
3 areas it's just -- we're finding that it's not possible.

4 So from staff's perspective, it does make sense
5 that the Board look at as wide a range of processes and
6 applications for handling organic materials as possible.

7 And, as I said, this contract would evaluate what
8 we think is a pretty innovative approach. It would use
9 the biological process known as anaerobic digestion, which
10 basically means biological decomposition in the absence of
11 oxygen. We'd use that a source-separated green material
12 to produce both gas for energy and a compost product.

13 Now, there are many anaerobic digestion
14 facilities in Europe that use solid waste. There are some
15 in California and the United States that use anaerobic
16 digestion on manure and biosolids. But there are none
17 that I'm aware of other than the very small one over at UC
18 Davis, that some folks visited last week, that use solid
19 waste.

20 There also are many different types of anaerobic
21 digestion, and they range from the hard and closed vessel
22 that some people may associate with anaerobic digestion to
23 plastic-lined and plastic-covered ponds that are used to
24 digest or decompose dairy manure.

25 So this project takes the idea of using an

1 existing permitted landfill site to house and test a
2 variation on this anaerobic digestion theme. It would
3 assess the viability in a number of ways. And I'm going
4 to turn the rest of the presentation over to Alan Glabe,
5 who will explain what the contract will do and kind of
6 what our timetable will be on this.

7 So with that, let me introduce Alan Glabe, who
8 ostensibly is working on E-waste. But we have stolen Alan
9 to help us out on a couple of technology-related projects.
10 And I do want to acknowledge Shirley Willd-Wagner and Jeff
11 Hunts for their graciousness in allowing Alan to help us.

12 CHAIRPERSON MULÉ: Great.

13 Good morning, Alan.

14 MR. GLABE: Good morning.

15 As Howard stated, the goal of the recommended
16 scope of work and contract in this item is to assess and
17 demonstrate an innovative landfill-based anaerobic
18 digester technology designed to generate both electricity
19 and a viable compost product. This includes assessing
20 emissions compared to those of current aerobic composting
21 technology and assessing cost effectiveness within
22 California's tip fee structure.

23 At its September meeting the Board approved the
24 allocation proposal for this project in the amount of
25 \$200,000 from the Integrated Waste Management account.

1 And I would like to just briefly describe the tasks
2 necessary to implement this project.

3 The tasks have been divided into four broad
4 categories.

5 Task 1 is the design and construction of this
6 cell. The construction of the anaerobic digester will
7 occur on top of an inactive area of the landfill at the
8 Yolo County central landfill. And it will involve the
9 following: Construction of the digester cell, which will
10 measure 100 feet by 200 feet by 20 feet high; installation
11 of a liquid collection system, a leachate recovery system,
12 and a gas recovery system; and, finally, filling the cell
13 with green waste. Design and construction are estimated
14 to take approximately four to six months.

15 Task 2 will involve the actual operation of the
16 digester, along with monitoring a analysis.

17 After construction the anaerobic digester cell
18 will be sealed and water will be added to the organic
19 waste and recirculated to speed up the anaerobic
20 decomposition and methane production. The gas produced
21 will be extracted, measured and piped to an on-site
22 landfill-to-gas energy facility for electricity
23 production.

24 The performance of this system will be analyzed
25 by monitoring gas composition as well as leachate

1 chemistry.

2 That brings us to Task 3, which will involve
3 compost recovery and testing.

4 Once the anaerobic phase of the project has
5 reached near completion, the system will be aerated so
6 that the remaining solids will undergo typical aerobic
7 composting. The resulting material will be tested using
8 U.S. Composting Council protocol and compared to other
9 compost products. The agronomic benefits and
10 marketability of the compost will be assessed and the
11 product value will be determined for use in horticultural
12 and agricultural projects.

13 And, finally, at the completion of the project a
14 report will be prepared and delivered to the Waste
15 Management Board. This report will include a technical
16 description of construction and monitoring results of the
17 project; a summary of the costs required to build,
18 operate, and monitor the demonstration project; and a
19 discussion of the technical and economic viability of this
20 type of digestion process as compared to other methods of
21 organic waste management currently in practice throughout
22 the state.

23 And that concludes the tasks overview.

24 And with that, staff recommends Option 1, approve
25 the scope of work and the County of Yolo as contractor for

1 the landfill-based anaerobic digestion compost pilot
2 project and adopt Resolution No. 2006-199.

3 Thank you.

4 CHAIRPERSON MULÉ: Thank you, Alan.

5 Do we have any questions for staff?

6 Board member Peace.

7 COMMITTEE MEMBER PEACE: So you will be taking
8 the digester gas and they will be making -- use that for
9 electricity?

10 DEPUTY DIRECTOR LEVENSON: That's correct, Ms.
11 Peace.

12 And I do want to indicate that Ramin Yazdani from
13 the county is here in the audience. And he can certainly
14 answer any more technical questions about how that will be
15 done and the timeframe for that, if you'd like.

16 COMMITTEE MEMBER PEACE: Yeah, because with the
17 bioreactor part of the landfill, they're using that for
18 electricity?

19 DEPUTY DIRECTOR LEVENSON: Right. This would be
20 a separate -- totally separate cell from -- it wouldn't be
21 associated with the bioreactor.

22 COMMITTEE MEMBER PEACE: Right. But they'll be
23 tying into that same electricity structure that -- the
24 infrastructure?

25 DEPUTY DIRECTOR LEVENSON: Right, the

1 infrastructure would be the same. And that's one of the
2 advantages of siting it at the landfill.

3 COMMITTEE MEMBER PEACE: Do you see -- if this is
4 a success, do you see other landfills then wanting to do
5 something like this?

6 DEPUTY DIRECTOR LEVENSON: It's certainly a
7 possibility. I think we need to see what -- you know, how
8 well it works, whether it generates a viable product, and
9 whether it generates sufficient gas for conversion into
10 electricity and kind of how it pans out economically as
11 well.

12 So I'm viewing it as a pilot. And with the
13 report back to you in roughly the end of next year, we
14 hope that we'd have some results that could then be
15 disseminated if it's successful. If it's not successful,
16 that's also valuable information for us to garner.

17 COMMITTEE MEMBER PEACE: Okay. Thank you.

18 CHAIRPERSON MULÉ: Board Member Wiggins.

19 COMMITTEE MEMBER WIGGINS: Well, I think it's
20 very exciting to look at the technologies of the future.
21 So I'm very pleased that you have this scope of work.

22 CHAIRPERSON MULÉ: Thank you, Board Member
23 Wiggins.

24 Do we have any other questions or comments?

25 With that, do I have a motion for approval?

1 COMMITTEE MEMBER PEACE: I'd like to move

2 Resolution No. 2006-199.

3 COMMITTEE MEMBER WIGGINS: Second.

4 CHAIRPERSON MULÉ: That was moved by Board Member

5 Peace, seconded by Board Member Wiggins.

6 Donnell, please call the roll.

7 SECRETARY DUCLO: Members Peace?

8 COMMITTEE MEMBER PEACE: Aye.

9 SECRETARY DUCLO: Wiggins?

10 COMMITTEE MEMBER WIGGINS: Aye.

11 SECRETARY DUCLO: Chair Mulé?

12 CHAIRPERSON MULÉ: Aye.

13 That passes unanimously. We'll put that on

14 fiscal consent.

15 Thank you, Alan. Thank you, Howard.

16 Okay. Next item is Committee Item D, Board

17 Agenda Item 12.

18 DEPUTY DIRECTOR LEVENSON: Thank you, Madam

19 Chair.

20 This is Consideration of New Projects for the

21 Solid Waste Disposal and Codisposal Site Cleanup Program.

22 As you know, we have one major project being brought for

23 your consideration. And I'm just going to turn it

24 straight over to Mr. Scott Walker for the presentation on

25 this item.

1 (Thereupon an overhead presentation was
2 Presented as follows.)

3 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

4 MANAGER WALKER: Scott Walker, Permitting and Enforcement
5 Division. And I just want to announce that -- you know,
6 I've kind of been doing a lot more covering for Wes these
7 days because of Wes and Rosita had a baby girl. And
8 everybody's doing great. And so I'd just like to mention
9 that. And great news.

10 Not great news for me as far as the program, but
11 great news for West and Rosita.

12 Yeah, I should have a picture. But, you know,
13 well, whatever. I didn't think of it.

14 --o0o--

15 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

16 MANAGER WALKER: The proposed project before you today is
17 the Ibanez illegal disposal site in the Torres Martinez
18 Reservation, Riverside County. The proposed project would
19 be Board-managed; estimated cost, \$1.75 million; and cost
20 recovery would be applicable.

21 --o0o--

22 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

23 MANAGER WALKER: Before I get into the site, just to
24 summarize the Torres Martinez Collaborative: The Torres
25 Martinez Reservation is basically Ground Zero in the war

1 on illegal dumping in California in southern Riverside
2 County. It's a focus of a lot of effort right now. And
3 there's a collaborative that's been established to develop
4 and implement a multi-jurisdictional plan that's very
5 comprehensive to clean up -- not just clean up but prevent
6 illegal dumping on the reservation. And it spills over on
7 nontribal lands too in terms of some of the benefits.

8 It includes the tribe; U.S. EPA, who is the
9 coordinator of this overall effort; Bureau of Indian
10 Affairs; and other federal, state and local agencies. And
11 the Waste Board participates through the Solid Waste
12 Cleanup Program, technical assistance primarily, but also
13 with projects as they become available and they fit in
14 with the program criteria.

15 This has been going on for about two years now,
16 and so we've been well along.

17 A couple major parts of it: There are over 16
18 open dump sites that are identified for cleanup, access,
19 control and prevention measures. Two projects are high
20 priority for Board consideration: Tayawa, which we
21 cleaned up and we'll give a little update here; and then
22 Ibanez, which is before you today.

23 There's a couple of huge ones out there, Auclair
24 and Lawson, right now. There remains to be seen whether
25 or not the Board will be asked to participate. But in the

1 meantime we're providing a lot of technical assistance to
2 those projects.

3 Monitoring, surveillance, and enforcement are key
4 elements, and there's multiple efforts ongoing in that
5 area.

6 And then, finally, infrastructure development and
7 public outreach.

8 On October 19th, the entire Collaborative met.
9 We had a very productive working meeting. And on October
10 20th there was a public press event. And part of this
11 event was also to recognize not just the success of the
12 Collaborative to this point, but also acknowledge the
13 Board for the Tayawa open dump cleanup. And I'd just like
14 to give you just a little bit of update on that.

15 --o0o--

16 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH
17 MANAGER WALKER: As you may recall, in August the Board
18 approved the first open dump cleanup on Torres Martinez
19 for the Board, and that was the Tayawa site. We completed
20 that project on September 18th. And the final cost was
21 actually less than the \$190,000 estimate. We removed
22 about 1500 tons of solid waste dumped on the site, almost
23 a thousand tires, treated wood waste, ash, contaminated
24 soils.

25 Another interesting part of that project is we

1 were able to identify a large amount of treated wood waste
2 on the edge of the property that was the responsibility of
3 the adjacent farmer, and we were able to make arrangements
4 such that the adjacent farmer took care of that
5 responsibility. So that was a positive aspect of that
6 project. And hopefully that will carry over on bringing
7 the surrounding agriculture community on notice about the
8 problems with treated wood waste dumping.

9 And then, finally, we constructed we constructed
10 a berm and a trench to prevent further dumping.

11 And so it was -- again just a couple slides to
12 show you.

13 --o0o--

14 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH
15 MANAGER WALKER: This is the way it looked before. In the
16 treated wood waste area, the bottom right, there was a lot
17 of burning. This -- not just smoke is a hazard, but the
18 toxic smoke from the treated chrome arsenate treatment and
19 creosote.

20 Also, the upper left, large quantity of a real
21 widespread -- household refuse, bulky items, tires,
22 very -- just a large open dump that was a magnet for more
23 dumping.

24 --o0o--

25 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

1 MANAGER WALKER: And then after the project, in the upper
2 left is the berm approach that we feel pretty good about.
3 And it's an approach that fits this site well. And then
4 you'd show -- the bottom right is the wood waste area
5 that's been cleaned up.

6 --o0o--

7 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

8 MANAGER WALKER: Now on to the Ibanez open dump. This is
9 a real big one. It's really complicated. It is located
10 on Avenue 66 between Highways 86 and 86 South, three miles
11 west of Mecca. It's 120-acre property of allotted land.
12 This is reservation land, but it has tribal member owners.
13 It's still under trust of the Bureau of Indian Affairs.

14 The land use on the property and to the east is
15 agricultural. But note on the slide that there's a large
16 residential development adjacent to the site that is --
17 basically they're breaking ground right now. And shortly
18 there will be a large number of homes there. And then
19 within a half mile of the site is the Desert Mirage High
20 School. And under the program criteria, this would be a
21 priority A-1 site.

22 Extensive illegal waste facility operations in
23 the past. A recent dumping and open burning by
24 unidentified persons.

25 There's a huge quantity of materials on this

1 site. Sewage sludge. There's sewage sludge dredge spoils
2 from Fiesta Island in San Diego; there's a large, over
3 300,000 cubic yards. There's almost 70,000 yards of
4 landscaping and green waste debris from various sources
5 from the surrounding area. Construction demolition
6 debris, including a pretty good pile of gypsum wallboard.
7 There's fly ash on the site of various sources. And
8 there's a number of miscellaneous piles: Tires, household
9 refuse, construction and demo debris. Some of it's
10 burned.

11 And so it's a very large, complicated site.

12 --o0o--

13 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

14 MANAGER WALKER: Just to give you some shots on it. As
15 you go up to the site, you see in the far distance a mesa.
16 And it's kind of hard to see in this slide, but we'll get
17 a little closer to it.

18 --o0o--

19 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

20 MANAGER WALKER: That's getting up close. That's --
21 actually quite a bit of that material is -- the sludge is
22 kind of at depth. But there is -- this dredge spoil
23 material from the Fiesta Island, a lot of it's on top of
24 and mixed in within and around the area on that site.

25 --o0o--

1 REMEDICATION, CLOSURE & TECHNICAL SERVICES BRANCH
2 MANAGER WALKER: And then you get closer and there's very
3 steep slopes that are sloughing off. Primarily that's the
4 dredge spoil material on top of the sludge.

5 --o0o--

6 REMEDICATION, CLOSURE & TECHNICAL SERVICES BRANCH
7 MANAGER WALKER: And then you get on top of the mountain
8 there -- they call it the sludge -- they have called it
9 Sludge Mountain -- and there's this huge area of these
10 windrows of combustible material landscaping debris that's
11 periodically torched. And it still is a lot of
12 combustible material on site.

13 --o0o--

14 REMEDICATION, CLOSURE & TECHNICAL SERVICES BRANCH
15 MANAGER WALKER: And as you get closer -- that slide's a
16 little bit dark, but it's -- we feel pretty confident the
17 material is relatively clean. Lots of characterization
18 ongoing. And as you can see some of the tires piled up,
19 there's also some drums of used oil on the site.

20 --o0o--

21 REMEDICATION, CLOSURE & TECHNICAL SERVICES BRANCH
22 MANAGER WALKER: And then you get up real close, lots of
23 palm fronds, other materials from some of the country
24 clubs and local areas. Again, very extensive piles of
25 this material. And some of it's been burned, some of it

1 still is a potential to get -- to continue to get burned.

2 --o0o--

3 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

4 MANAGER WALKER: Then just some of the other piles.

5 Here's a -- at upper left is some of the fly ash. It's
6 very dusty. It's material that hopefully will be able to
7 be land spread. We believe it will be clean enough to
8 land spread.

9 To the right is a large gypsum pile. To the
10 lower left is some of the burned residue from the open
11 burning of refuse and construction and demolition debris.
12 And then to the bottom right is some of the more recent
13 construction and demolition debris loads that have been
14 dumped on the site.

15 --o0o--

16 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

17 MANAGER WALKER: This site has a very extensive,
18 complicated history. And so -- we have much more
19 information in the item, but just to go over three main
20 categories:

21 One is the sewage sludge activities. And the
22 sewage sludge activities was started in 1989 under an MOA
23 with the Water Board, a company called Chino Corona Farms,
24 and Geraldine Ibanez, a tribal member, who was owner of
25 the allotment land.

1 This operation expanded extensively between 1990
2 and '93 by Chino Corona Farms with respect to -- they had
3 a contract with the City of San Diego with respect to the
4 Fiesta Island area.

5 A huge stockpile developed, accumulated. By '93
6 there was extensive complaints by the tribe and public to
7 shut down the site and clean it up. Not a lot of evidence
8 of material moving off the site for productive use.

9 The city canceled the contract in '93, and the
10 company declared bankruptcy. There were several other
11 operators. Finally, the U.S. District Court issued an
12 injunction barring further sludge shipments from this
13 site.

14 Another important factor is that the CCF, the
15 Chino Corona Farms, the company owners, they were indicted
16 and convicted of crimes, not specifically with respect to
17 this site, but with another site that was -- I believe it
18 was in Imperial County where they were doing illegal
19 activities.

20 And then there was -- in the mid-nineties there
21 were some site investigations by various consultants that
22 were conducted.

23 So that covers kind of a summary of the sludge
24 activities, which were really quite awhile ago, and are a
25 part of this site.

1 --o0o--

2 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

3 MANAGER WALKER: More recently has been the Larsen
4 activities. And this started in 1999 under a lease
5 arrangement between Mrs. Ibanez and a Bret Larsen with a
6 company called Larsen Farms. This operation had a very
7 narrow focus of temporary storage, drying and sorting of
8 grass clippings. Lots of country clubs in the area
9 were -- you know, in the Coachella Valley and near Palm
10 Desert. And there's sod farms too where they grow the
11 grass for these country clubs, that they have to reuse
12 seasonally.

13 Mrs. Ibanez died in 2001. And Bureau of Indian
14 Affairs issued a cease and desist order in December of
15 2001 for violations of a permit that was issued for this
16 operation. The operator clearly went way beyond that
17 permit, did a lot of other activities, stored and dumped a
18 lot of other waste on the site.

19 The cease and desist was not corrected and the
20 permit was revoked. There was an appeal by Mr. Larsen,
21 and the appeal board affirmed the revocation of the permit
22 in 2003.

23 Finally, the third category are activities
24 subsequent to Larsen. And this site has had extensive
25 illegal dumping. It's ongoing. There still is illegal

1 dumping and open burning by -- essentially by unidentified
2 parties.

3 There is fencing ongoing. We are -- a lot of the
4 dumping, there's some indication that there is some better
5 control over it, but there still is some more recent
6 dumping. There's some site security issues on this site
7 that are prominent that we're working on right now. And
8 the Board's cleanup would add to that in terms of
9 preventing that further dumping.

10 This site has also had multiple responses by the
11 local fire authority for open burning on the site where
12 these piles of combustible debris get torched. Lots of
13 smoke. There's been a lot of complaints and issues with
14 the local school on this.

15 --o0o--

16 REMEDICATION, CLOSURE & TECHNICAL SERVICES BRANCH
17 MANAGER WALKER: The proposed cleanup project would -- the
18 Board's contractor would essentially blend materials
19 on-site to the extent that they were appropriate within
20 reasonable agronomic application limits. To the extent
21 that sewage sludge could be utilized and is needed, we
22 would use some of that material.

23 Other wastes and processing residues unable to be
24 recycled would be removed to proper disposal at permitted
25 facilities -- a lot of the C&D, the burn debris, and some

1 of the tires and other materials.

2 The sludge piles, essentially there's a lot of
3 this dredge material above them. And we think that that's
4 probably going to be limited ability to apply that at
5 agronomic rates because of the marine sediment salinity
6 levels. But in a sense though, the material within those
7 slopes would be consolidated and graded, such that we get
8 a much better containment of the material and that the
9 height and the footprint would be reduced commensurate so
10 that it minimized dust and odors, physical hazards and
11 visual nuisance provided by the site.

12 And then, finally, in consultation with BIA, we
13 would install and upgrade the gates and access controls.
14 We're hoping to get at least a temporary gate in there
15 very soon. But we would work with them to upgrade that,
16 which we think is amenable to helping with the prevention
17 of any further dumping.

18 And, again, the estimated cost is \$1,750,000.
19 I'll give you an update of the Board's fund status at the
20 conclusion of the presentation.

21 --o0o--

22 REMEDICATION, CLOSURE & TECHNICAL SERVICES BRANCH
23 MANAGER WALKER: Cost recovery. In this particular case
24 cost recovery would be applicable and would be pursued to
25 the extent practical.

1 There are five responsible parties currently
2 identified in addition to the property owner estate and
3 heirs.

4 In light of the protracted enforcement history as
5 well as the complexities regarding legal authority on
6 allotted sovereign land, cost recovery would be referred
7 to the Attorney General's office. And, again, Steve
8 Levine from our Legal Office is here to answer questions
9 and respond if the Board desires more discussion on the
10 cost recovery aspect.

11 --o0o--

12 REMEDICATION, CLOSURE & TECHNICAL SERVICES BRANCH
13 MANAGER WALKER: Finally, I'll give you an update on the
14 contract status. The program trust fund is in really good
15 shape. With the current appropriation, we have over \$10
16 million in the fund. We've had some very good success in
17 cost recovery over the last six months, and it's just
18 helped build that up.

19 Our two contracts -- again, the trust fund money,
20 the unreserved balance is available for new grants, new
21 contracts, new allocations to existing contracts. But we
22 also have money that's already allocated and encumbered in
23 existing contracts.

24 The two contracts for remediation are summarized
25 above in the slide. And the proposed project would be --

1 if approved, would be implemented by our contractor,
2 Recon. And their contract, if this project's approved,
3 there would still be a balance of over \$1 million in that
4 contract.

5 And then we have the AJ Diani remediation
6 contract, and that has over \$2 million in unused
7 allocation right now.

8 --o0o--

9 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH
10 MANAGER WALKER: So with that, staff -- we've reviewed
11 this site. We believe this project meets program
12 criteria. And we recommend that the project to clean up
13 the Ibanez illegal dumpsite be approved and the Board
14 adopt Resolution 2006-200.

15 And I'd be happy to answer any questions.

16 CHAIRPERSON MULÉ: Thank you, Scott. Great
17 presentation.

18 First of all, we do have three speakers. So I'd
19 like to let them go first. And then if you have any
20 questions, if that's okay, then we'll ask our questions.

21 Okay. Our first speaker is Alberto Ramirez.

22 MR. RAMIREZ: Good morning. My name is Alberto
23 Ramirez. I'm the Tribal Environmental Director for the
24 Torres Martinez Tribe. And I came here to speak in favor
25 of this effort that is critically needed.

1 If you look at your materials, since 1989 the
2 tribe has been dealing with this issue that is affecting
3 the health and the community health of hundreds of
4 families. Now this is more important because we have more
5 people coming to live within the reservation boundaries
6 and around the reservation.

7 This area, like Scott mentioned, you know, has a
8 lot of importance, because it's still surrounded by
9 unincorporated land. And the cities are growing, are
10 moving into that direction, but it is still
11 unincorporated. And it's becoming a regional issue.

12 The CVGA, the Coachella Valley Governance
13 Associations, with more than nine cities, representatives
14 from these nine cities issue -- they issue a resolution,
15 you know, in regards to support for these activities. And
16 why? Because the air do not respect boundaries, you know,
17 moves all the way around.

18 It's historically proved, you know, and the data
19 is there how this affects -- this specific site affects
20 the school with 7,000 kids, you know, when they were not
21 able to go to play or get outside because the density of
22 the smog that was created by the fires.

23 Illegal activities and illegal dumping are moving
24 together. And this is an issue the tribe recognize, and
25 that's why we start working with federal, state, local and

1 regional agencies, to create a collaborative effort.
2 Because the problem is so big that nobody can take care of
3 this by himself, you know. We need to put solutions
4 together that maybe sometimes is start thinking out of the
5 box and to start looking for discoordination between
6 problems about jurisdiction and responsibilities.

7 But we cannot -- we are not going to be able to
8 solve the problem that we have for the solid waste in the
9 Coachella Valley if we keep talking or thinking only about
10 the mandate that we have by our responsibilities
11 individually.

12 This issue is also important because there is
13 going to be more than 55,000 homes built around this
14 property. This is in the newspapers two weeks ago, the
15 County of Riverside put together a meeting and they were
16 saying, you know, we need to be prepared because this is
17 going to happen. It's in between Avenue 66 bordering this
18 property; north to Avenue 62; to the east, Jefferson
19 street; to the west, the new freeway. There's going to be
20 more than 150,000 people living there. And Scott
21 mentioned, you know, that adjacent to this property it's
22 already in the process to build a housing development that
23 is going to be thousands of homes over there.

24 I think we have today an historical opportunity
25 to make the difference for the community health of

1 hundreds of people and families there.

2 As you know, the Coachella Valley is in a --
3 area, you know, for PM10. We suffer from asthma. There
4 are kids in the hospitals. And illegal burning, and this
5 the one of those type of sites, you know, can increase,
6 you know, that risk.

7 I just want to ask you, to the Board and to you,
8 Madam Chair, to help us with this effort that we're
9 putting together in between 35 different agencies, federal
10 state, local and regional, to take care of a problem that
11 historically has been affecting the health of families
12 around the valley, and pretty soon are going to affect
13 more and more people. Just, you know, we're going to have
14 a great opportunity to work on this winter -- seems like
15 it's going to be a wet winter -- and dust control is a big
16 issue for this type of operations.

17 If we lose the opportunity, we're going to be
18 affecting, you know, the health of thousands of families,
19 when we have, you know, the possibility today if we work
20 together. And I think everybody will be proud, you know,
21 that at least we make a big dent at regional level, maybe
22 small dent nationwide. But I think this collaborative
23 effort will be a trend that we can show later, you know,
24 how we can work together to solve issues that we have.

25 Thank you very much.

1 CHAIRPERSON MULÉ: Thank you, Mr. Ramirez.

2 Next is Clancey Tenley.

3 Good morning.

4 MR. TENLEY: Good morning. Thank you very much.

5 My name is Clancey Tenley. I'm manager the Tribal Program

6 Office in EPA Region 9 in San Francisco. Thank you for

7 the opportunity to speak in support of this Board item.

8 I'd like to start by thanking the Waste Board for

9 your cleanup at the Tayawa site and for your ongoing

10 participation in the Torres Martinez Solid Waste

11 Collaborative.

12 As Scott mentioned this morning, the

13 Collaborative is a partnership of 25 agencies, state,

14 federal, local, tribal, that have come together to stop

15 dumping, clean up dumps, and prevent further dumping on

16 the Torres Martinez Reservation. And in our experience

17 this is the most expansive partnership of this type that

18 we know of among state, federal, local, tribal agencies in

19 California, Arizona and Nevada. And we feel that this

20 will be an effective model for other reservations around

21 our region.

22 The California Integrated Waste Management Board

23 is a key participant in this partnership, bringing

24 expertise, experience and much needed resources to the

25 table. And your participation we think is one of the

1 pillars of this partnership.

2 I'd also like to thank Board Member Mulé and
3 staff Scott Walker for your very effective presentations
4 on October 20th for the kickoff of the Torres Martinez
5 Solid Waste Collaborative. I think as a result of your
6 participation and the others there, we received very
7 strong coverage by the local press. And it sent a message
8 to the communities from Palm Springs down to the Salton
9 Sea that it's not okay to dump on the Torres Martinez
10 Reservation or in Riverside County.

11 I think it was Lieutenant Sheriff Bartneck that
12 said during the event on the 19th that he has been working
13 to stop dumping in Riverside County for 20 years, and he's
14 seen more progress in the last few months with this
15 collaborative than he has in the total of those other 20
16 years.

17 Regarding the Ibanez site, Scott laid out the
18 history very well for this site. This has been an ongoing
19 frustration for many agencies involved with it for many
20 years. And with its long and infamous history, I believe
21 that it's now at a critical time. As Alberto and Scott
22 both mentioned, housing is imminent. There are about
23 3,000 housing units that will be constructed very soon
24 immediately adjacent to this site. They've already
25 started grading. The site is fenced. It's been graded.

1 Utilities are going in. And there'll be houses
2 constructed there very soon. Already since the time that
3 this pile started, there's been the mega school built
4 about a quarter of a mile away with, as Alberto said,
5 7,000 student already a quarter mile away. Already those
6 students are affected by smoke from fires that burn at
7 this site.

8 The site as it exists today is an attractive
9 nuisance and is encouraging further dumping on this site
10 and at the reservation. It's a very tall sludge mountain.
11 It's very easy for people to drive in and go behind it and
12 dump truck loads, semi loads of waste and go undetected.

13 In addition, there's a large amount of
14 combustible material that's subject to fires. And our
15 experience on the Torres Martinez Reservation at other
16 sites has been that if we let the sites go on without
17 abatement, the costs to the taxpayer increase greatly.

18 For example, at the Lawson site, within about a
19 half a mile of this site, the Bureau of Indian Affairs
20 recently took control of that site to shut it down, to
21 stop receiving waste. They have spent over a million
22 dollars in the last couple months to put out fires.
23 They've contracted with the local fire -- Riverside County
24 Fire. And they're spending a great deal of resources just
25 on fire abatement.

1 The South Coast Air District is also very
2 concerned about the air emissions, the PM10 that comes
3 from the fires.

4 And at the George Auclair site, which is down the
5 road a little bit further on the reservation, that site
6 recently had a fire, that prior to the fire the site was a
7 bad open dumping site. It's now a hazardous waste site,
8 because the grape stakes that were piled at the site when
9 burned created a chromium and arsenic ash that's subject
10 to blowing, that could endanger the health of the nearby
11 residents. EPA -- we recently issued a CERCLA order to
12 abate that. And we're going to have to go in -- if the
13 landowner doesn't come in and clean it up, we're going to
14 have to do that at a great expense to the taxpayers.

15 So the message here is, these sites, the longer
16 we leave them, the more cost it is for the taxpayer, for
17 us to clean them up.

18 So in sum, I'd just like to thank the California
19 Integrated Waste Management Board for your effective work
20 with tribes and, in particular, the Torres Martinez Tribe.
21 You are a key element in the strategy of stopping dumping
22 in Riverside County and Torres Martinez.

23 And thank you for your consideration of this
24 item.

25 CHAIRPERSON MULÉ: Thank you, Clancey.

1 You have a question, Board Member Peace?

2 COMMITTEE MEMBER PEACE: Yeah. You mentioned the
3 25-agency collaborative that's working on this cleanup.
4 Can you tell me what all these agencies are going to be
5 doing to help prevent this from happening again?

6 MR. TENLEY: Oh, you bet. Thank you very much
7 for asking that.

8 Cal EPA has brought their top surveillance camera
9 expert down to the reservation. They'll be installing
10 three surveillance cameras this fall.

11 The Highway Patrol and the Sheriff's Office are
12 going to be doing roadside checks. They're going to be
13 stopping cars within a matter of weeks here and doing
14 stops for vehicle code violations and other violations to
15 stop the trucks that are bringing the waste in.

16 The EPA has provided about \$175,000 worth of
17 funding for dump closures to the Torres Martinez Tribe.
18 The tribe has cleaned up four sites already with that
19 funding.

20 The BIA, as I said, has taken control of one of
21 the largest sites. They've put in access control, gated
22 around the entire thing, and are working with the local
23 fire department to stop fires.

24 EPA did a CERCLA order against the Auclair site.
25 We've done seven inspections this summer. We may soon be

1 issuing additional enforcement actions against allotment
2 owners for accepting waste. It's really a formidable
3 combination of inspection, surveillance, enforcement.

4 CHP did a flyover the other day and documented
5 every dump on the reservation and what's there. And we're
6 working with the California Department of Toxic Substances
7 control to then go after the people that are dumping
8 things that are subject to their regulations.

9 I hope that answers your question. It's a lot.

10 COMMITTEE MEMBER PEACE: No, that sounds great.

11 I guess what I'm wondering also is once you do
12 surveillance and stuff on this site, is there any -- do
13 you get any feeling that it might then just encourage
14 people to look for another site to dump, since this one's
15 going to have all the surveillance and -- will there be
16 other places that people want to go to dump? And what
17 do -- do you have plans to --

18 MR. TENLEY: Absolutely. That very much would be
19 a concern. And that's one of the things that we're trying
20 to make sure we avoid, is that when we clean up one site,
21 it doesn't just pop up down the road. So our effort has
22 been to get the strong word out -- the tribe has put
23 billboards on the reservations, 35 no-dumping signs
24 throughout the valley, the Coachella Valley, to get the
25 strong word out that open dumping is not okay. And I

1 think with our local partners there, with Riverside
2 County, it's not going to be just seen as this is a Torres
3 Martinez issue, that the message is getting across, that
4 local law enforcement throughout the valley will be
5 enforcing and coming down hard on anybody doing open
6 dumping.

7 COMMITTEE MEMBER PEACE: Now, the 3,000 homes
8 that you said are being built right now, those are on the
9 reservation?

10 MR. TENLEY: Those are immediately next to the
11 site on a privately owned fee parcel next to this land,
12 which is -- the Ibanez site is trust property -- trust
13 land.

14 So the land where the houses are built are
15 privately owned. The tribe is not involved in that
16 development.

17 COMMITTEE MEMBER PEACE: And would you know if
18 those homes are going to be required to have trash
19 service?

20 CHAIRPERSON MULÉ: Yes.

21 MR. TENLEY: Scott, do you know?

22 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH
23 MANAGER WALKER: I think that within the City of Coachella
24 or the countywide area they will be required to have trash
25 service in those residential units.

1 COMMITTEE MEMBER PEACE: Okay. Thank you.

2 MR. TENLEY:

3 CHAIRPERSON MULÉ: Thank you, Clancey.

4 And I just want to mention, I did have the
5 opportunity to represent the Board on October 20th at this
6 collaborative event. And I have to say that this is
7 probably one of the most effective collaborations, if you
8 will, to combat illegal dumping that I've seen in the time
9 that I've been working on illegal dumping.

10 As you know, Clancey, I mentioned that I served
11 on the Riverside County Illegal Dumping Task Force. And
12 it was just so frustrating because we couldn't get
13 anything done. But we knew that in order to be effective
14 and to get things done, that we needed to work together.
15 And so I want to thank U.S. EPA -- Wayne Nastri was
16 there -- as well as the tribe. And our sister agencies,
17 DTSC is involved in this, Cal EPA. It truly is a team
18 effort to address this very, very significant issue in
19 Riverside County. And it's working. It is working. It's
20 going to take time, but it is working. I think the word's
21 already getting out it's not okay to dump illegally in
22 Riverside County.

23 So with that, thank you.

24 And we do have one more speaker, Tim Miller, City
25 of San Diego.

1 MR. MILLER: Good morning. My name's Tim Miller.

2 I'm a deputy city attorney with the City of San Diego.

3 Your staff report characterizes this site as
4 complex. And the city certainly agrees. And it is with
5 some reservation that the city has taken an oppose
6 position to this item. But that should be characterized
7 more by this item going forward as is and without some
8 additional consideration.

9 Really the city as a government agency
10 understands the need to protect the citizenry from what
11 appear to be some very considerable hazards at this site.
12 But from the city's perspective 13 years later, the
13 conditions of the biosolids at the site do not necessarily
14 present the same issue that some of the other illegal
15 activity at the site presents.

16 In reviewing the record that the city's been able
17 to put together, from our perspective this has been a
18 non-issue and has been dormant for 13 years for the City
19 of San Diego. So we're really trying to get back up to
20 speed, with people having retired and not being around, to
21 documents being who knows where. We're really trying to
22 get up to speed again in a short amount of time on this.

23 But it appears from the documents that have been
24 made available there are some facts that either aren't
25 complete or aren't correctly characterized in the

1 documents the city has seen regarding this site.

2 It is true that the city had a contract for the
3 disposal of the biosolids at this site. The city has had
4 a history of trying to find beneficial uses for the
5 biosolids. In the mid-eighties the city spent a lot of
6 money to have laboratory testing done on the biosolids so
7 it could be applied as fertilizer for cattle feed. And
8 the city found that that laboratory testing became very
9 expensive, and so we looked for another means of
10 beneficial reuse. It's my understanding that that
11 resulted in the CCF contract, the Corona Chino Farms
12 contract, that's the subject here.

13 What isn't correctly characterized in the
14 documents the city have seen is is that the contract with
15 CCF required them to dispose of the biosolids in
16 compliance with all regulatory provisions. And it wasn't
17 that we just put it in a contract and walked away. The
18 city was required that CCF provide the city with
19 documentation that they were being properly managed.

20 What we discovered in 1993 with the various media
21 attention, and including city employee surveillance of
22 CCF, is that the documents CCF was providing to the city
23 were false. The city was getting documents saying it was
24 being properly managed. And those were fabricated. And
25 at that point in time the city terminated its contract

1 with CCF.

2 Now, one thing that isn't clear at this point:
3 The materials you've been provided suggest that the city
4 resumed disposal at the Ibanez site with a different
5 contractor, Terra Farms. That isn't consistent with
6 documents that the city has been able to pull up in the
7 past couple of days. I have a February 1994 city
8 manager's report to council that says that as of February
9 1994, biosolids from Fiesta Island were being landfilled
10 under a contract with a completely different company.
11 That is corroborated by a June 1994 letter to Terra Farms,
12 the company we allegedly picked up with at Ibanez, stating
13 that their request for proposal -- or their proposal in
14 response to the city's request for proposal was
15 nonresponsive. So unless something happened subsequent to
16 June 1994, the city did not enter into a contract with
17 Terra farms to continue disposing of the biosolids at
18 Ibanez.

19 Subsequent to all of this, the city cooperated
20 with U.S. EPA in their investigation of CCF. We have
21 documents showing that we supplied over 12 boxes of
22 records to U.S. EPA in their prosecution.

23 The city was negotiating with the U.S. EPA to
24 cooperate with them at the time in remediating the site.
25 But for whatever reason, 12 years ago, U.S. EPA stopped

1 negotiating with the city and nothing else happened.

2 Here we are 12 years later, the City of San Diego
3 has a \$1.4 billion pension deficit, after we've already
4 paid a contractor to beneficially reuse this material,
5 after they've already filed bankruptcy, after the -- we
6 made claims to the insurance policies that were there. We
7 notified them. But now we're 12 years later. We don't
8 know where these insurance companies are. There are a
9 number of other people that should be responsible here.

10 So we think those facts are critically important.

11 Another critically important fact: The
12 documentation we've been able to review, which is
13 specifically a Water Environment Federation report on
14 bio -- these biosolids at this site, states that these
15 biosolids present no health threat.

16 All of their testing on air quality, groundwater,
17 et cetera, has stated that these biosolids present no
18 health threat.

19 We don't dispute the fact that there's been
20 plenty of other dumping that's gone on since 1994 at the
21 site and that the manner in which those have happened
22 presents other issues.

23 So in all of that we think that there are these
24 additional considerations.

25 Another additional consideration, given the fact

1 that the biosolids had been there for 12 years they
2 present no health threat, is the fact that it's not clear
3 to the city from what we've been able to see that the
4 proposed manner from managing these biosolids is necessary
5 to eliminate the threat. But it sounds a lot more like
6 it's doing something for post-closure use of the site,
7 which is an ineligible cost under your program.

8 So we think additional information would be
9 warranted as to why the work that is being done is
10 necessary and meets an eligible cost for cost recovery.

11 So with that, the city does oppose the staff
12 recommendation. And we believe that there's one of three
13 options the Board should consider with respect to this
14 item.

15 One of them that is presented on your Board item
16 is to postpone any action on this site until you get
17 additional information from staff. And I can understand,
18 having seen some of the pictures there, why that may not
19 be something the Board is inclined to do.

20 Another option that the Board can consider that
21 isn't included in your staff item is specifically
22 reserving any authorization to act with respect to the
23 biosolids. Address the security issues, address the
24 issues with the other items that have been illegally
25 disposed of. But let's take a harder look at what's been

1 happening with those biosolids, whether or not they in
2 fact present a health threat and whether or not managing
3 them as proposed is necessary for securing the site and
4 eliminating a nuisance or whether it's addressing a
5 post-closure use of the site.

6 A third option and one the city believes that, as
7 a bare minimum, should be considered in fairness to the
8 taxpayers of the City of San Diego is to expressly provide
9 the city in the resolution with an opportunity to come
10 back and present documents and other information in
11 support of a request for a cost waiver and a cost recovery
12 waiver. Because the taxpayers have already paid once to
13 try to have this material beneficially reused, and now
14 you're coming back -- the government agencies as a whole
15 are coming back 12 years later and asking us to pay more
16 money with costs that have increased over 12 years, and
17 with a lot of our other remedies available for being
18 indemnified having been foreclosed by that delay.

19 With that I'll conclude.

20 CHAIRPERSON MULÉ: Thank you.

21 Now we have time for some questions.

22 Board Member Peace, do you have any questions?

23 COMMITTEE MEMBER PEACE: I mean I would see if
24 our staff can address some of the issues that Mr. Miller
25 just brought up, in terms of the biosolids. Are they a

1 threat right now to public health and safety? Is it just
2 that they piled up, or are they still posing a threat
3 other than the pile being there?

4 DEPUTY DIRECTOR LEVENSON: Ms. Peace, I think
5 we'd like to respond in a couple of different ways.
6 There's two different issues here. One is what he just
7 raised and what you just asked about the biosolids
8 themselves, which are --

9 COMMITTEE MEMBER PEACE: But I think they're
10 mainly concerned with cost recovery. Well, I suppose --
11 yeah.

12 DEPUTY DIRECTOR LEVENSON: That was the second
13 issue, which clearly this is an issue of the applicability
14 of cost recovery. And we appreciate that the city's here
15 today.

16 And I think perhaps it would be best to go first
17 to Mr. Levine to talk about his discussions or his
18 attempts to get information from the city about this and
19 what the various possibilities are.

20 But one of the things that staff is concerned
21 about overall on this project is the need to commence the
22 cleanup relatively soon, especially with the residential
23 development going in. And we think that some of the cost
24 recovery issues that have been raised here can be dealt
25 with subsequently to that decision.

1 But let me turn to Mr. Levine for more discussion
2 about that.

3 And then in terms of the biosolids material
4 itself, Scott can add in some additional information.

5 CHAIRPERSON MULÉ: Thank you, Howard.

6 Good morning, Steve.

7 STAFF COUNSEL LEVINE: Good morning, Chair.

8 Yes, in contrast to many of our cost recovery
9 items where we specifically address at the hearing -- I'm
10 sorry -- cleanup items where we address at the hearing on
11 the item to what extent and to whom we would be pursuing
12 cost recovery in the resolution. In this particular item
13 we indicated that given the complexities relating to legal
14 authority over environmental issues on allotted sovereign
15 land, that this matter will be referred to the Attorney
16 General's office to evaluate the potential for pursuing
17 cost recovery against responsible parties, which do
18 include the City of San Diego.

19 So this particular -- this determination you're
20 making today is not a direction to the AG to proceed
21 against any or all of these responsible parties, but to
22 evaluate, which evaluation will likely take place once the
23 remediation is completed and they're retained to deal with
24 this matter.

25 One of the options that the representative from

1 the city raised was to provide additional information as
2 to -- for the Board to consider waiving cost recovery
3 against the City of San Diego. The Board does under the
4 regulations have a certain amount of discretion in that
5 regard. And given the timing of this, I believe that --
6 and I have had communications with the city as well on
7 this -- they would like to have more time to actually
8 establish to you a lot of the information that they
9 provided today, which they weren't able to do on short
10 notice.

11 So I believe it would be in your discretion to
12 recite in the resolution that additional opportunity at a
13 future Board meeting would be provided to the city to
14 address that matter. Not unlike what we've done on the
15 Sonoma tire situation, where they could make a
16 presentation, and then since this is obviously a
17 litigation matter, the Board could then conclude and
18 deliberate in closed session on the request.

19 CHAIRPERSON MULÉ: Board Member Wiggins.

20 COMMITTEE MEMBER WIGGINS: It sounds like the
21 City of San Diego was asleep at the switch 12 years ago or
22 however long.

23 But I have a question regarding the sewage sludge
24 that -- I mean it's a huge amount of sewage sludge. And
25 how did it -- it kept coming even after they weren't

1 composting. And where did it come from and how did it get
2 there?

3 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

4 MANAGER WALKER: Well, as we -- in terms of the review of
5 the record, it appears that the bulk of the material came
6 from Fiesta Island in San Diego, both biosolids or sewage
7 sludge and dredge -- marine sediment dredge spoils. And
8 the bulk of that -- there is evidence of other sources,
9 but it appeared that the vast majority of it came from
10 that particular location.

11 The accumulation -- it was pretty clear during
12 the accumulation that the illegal operation -- they were
13 clearly a sham operation. They just were taking the stuff
14 and they were hauling it and they were piling it up in a
15 very short period of time. And that amount of material
16 moved that quickly over that short a period of time
17 accumulated over 300,000 cubic yards. And as a result of
18 the progression of the case and all, it was shut down. It
19 was clearly a sham operation. It was too late at that
20 time.

21 CHAIRPERSON MULÉ: And also -- excuse me, Scott.
22 Could you address Board member Peace's question regarding
23 the toxicity.

24 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

25 MANAGER WALKER: I think the question is with respect to

1 the biosolids and the dredge spoils, what is the threat to
2 public health and safety and the environment?

3 We would acknowledge there is some a website of
4 information that is -- we're not sure of its, you know,
5 neutrality or what have you in terms of biosolids, but
6 there has been some record. And we know of -- it's not
7 hazardous according to the constituents we found. But
8 clearly the material, both the sewage sludge and the
9 dredge spoil, would pose a -- is not only a solid waste,
10 but it poses a potential threat to public health and
11 safety and the environment. And it's also a confirmed
12 nuisance by virtue of the dust, potential odors and visual
13 hazard as it currently exists.

14 One of the things to note is there is a public
15 contact issue with this material. There are -- we have
16 notices on site that there's some indications of primary
17 sewage sludge and screens. And, again, we don't know
18 whether this necessarily came from Fiesta Island. It may
19 have come from another source. But there are some primary
20 indications in terms of grits and screenings that would by
21 virtue of just the nature of that waste pose a substantial
22 concern with potential public contact.

23 In the program criteria, the Board's
24 prioritization clearly with respect to public health and
25 safety and the environment in and of itself as a nuisance,

1 and a confirmed nuisance, it qualifies under the cleanup
2 program.

3 CHAIRPERSON MULÉ: Board Member Wiggins.

4 COMMITTEE MEMBER WIGGINS: What is Fiesta Island?

5 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

6 MANAGER WALKER: The Fiesta Island, there was
7 essentially -- and again -- Fiesta Island is a location --
8 and probably the gentleman from San Diego could probably
9 give a better summary of that. But as we understand it,
10 it's within Mission Bay area. And it was an area where
11 they -- biosolids was from Point Loma waste water
12 treatment plant and was taken for drying on that island.
13 The island was eventually graded and constructed in
14 association with Sea World in there. And now it's a
15 very -- it's a very nice area and highly desirable,
16 very -- you know, a recreation area.

17 COMMITTEE MEMBER PEACE: Home of Over The Line.

18 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

19 MANAGER WALKER: Pardon me?

20 COMMITTEE MEMBER PEACE: Home of Over the Line.

21 REMEDIATION, CLOSURE & TECHNICAL SERVICES BRANCH

22 MANAGER WALKER: Yes, yes.

23 COMMITTEE MEMBER PEACE: My term.

24 Okay. So what -- Steve, you had mentioned
25 something that you thought it would be okay to put

1 something in the resolution then, like whereas the city
2 would have the opportunity to present, I mean -- and you
3 don't see that being a problem. Because that wouldn't say
4 that we're not going to pursue cost recovery. I don't
5 think we'd want to say that. But have the opportunity for
6 them to present whatever they want to present. It's
7 ultimately going to be up to probably a judge or the
8 courts to decide who's ultimately responsible and who has
9 to put --

10 CHAIRPERSON MULÉ: Steve, would it be necessary
11 to put anything in the resolution about cost recovery
12 after what you explained to us?

13 STAFF COUNSEL LEVINE: That's correct, it
14 wouldn't be necessary. The resolution -- where typically
15 the resolution does specifically reference cost recovery.
16 And if we had done that here, what is being requested by
17 the city could be problematic because of that. But here
18 the resolution is presently silent as to cost recovery.
19 The item makes clear that all of the responsible parties,
20 there is the potential for pursuit.

21 And there are two prongs. One prong is this
22 presentation the city is requesting to make, which is for
23 an explicit waiver from cost recovery, where we would not
24 even refer the city to the Attorney General for
25 consideration. Another aspect if the Board does not go

1 with the waiver is -- there are various considerations,
2 cost benefit analyses, other issues. The city mentioned
3 some of their financial issues that are ongoing, that's
4 sort of not related to this, but are also a factor. And
5 it could be down the line the Attorney General may have
6 recommendations for the Board's determination as to
7 whether to pursue.

8 But since the resolution is silent and we're
9 deferring determinations of to whom we're going to be
10 proceeding against, I do not see anything inappropriate
11 about giving them, sort of similar to the Sonoma tire
12 situation, a presentation for requesting waiver at a later
13 date before the site is cleaned up and before we get to
14 the point with the Attorney General. And whether it's in
15 the resolution or not is at your discretion. They've
16 requested it and that's why I brought it up in my talk.

17 CHAIRPERSON MULÉ: So let me ask Tim if the
18 city -- representing the city, if the city would be okay
19 with that. Rather than amending the resolution, the
20 resolution would be silent on the issue of cost recovery
21 based on -- based on the conversation that we just had,
22 the statement that Steve Levine just gave us.

23 MR. MILLER: The only thing I'm not clear about
24 then is what procedural mechanism the city would use to
25 specifically request the waiver. So if it were in the

1 resolution that we would actually have that opportunity,
2 we'd have a mechanism to come back before the Board and
3 say we're exercising that right, if you will, that we were
4 given in the resolution. If there's another procedural
5 mechanism that mandates the opportunity to present our
6 case, then we're amenable to not having the resolution
7 amended.

8 CHAIRPERSON MULÉ: Steve.

9 STAFF COUNSEL LEVINE: The resolution is one
10 option. Another option would be a Board direction to
11 staff. That if the city in the near future, obviously the
12 sooner the better, requests to make such a presentation,
13 that we go ahead and agendize that presentation for your
14 consideration, that would also serve the same purpose.

15 CHAIRPERSON MULÉ: Okay. So let me ask -- Let me
16 give you this option, Tim. If we keep the resolution as
17 it is but again from the dais we direct staff to afford
18 you the opportunity to make a presentation to the Board at
19 a future date, would you be comfortable with that?

20 MR. MILLER: Would that be reflected in the
21 minutes?

22 CHAIRPERSON MULÉ: Yes. Well, this is all being
23 trans --

24 MR. MILLER: It just was?

25 CHAIRPERSON MULÉ: It just was.

1 MR. MILLER: Then that would be acceptable.

2 CHAIRPERSON MULÉ: Is that acceptable?

3 MR. MILLER: That would be acceptable.

4 CHAIRPERSON MULÉ: Okay. Do we have any other
5 questions for staff?

6 Do I have a motion?

7 COMMITTEE MEMBER PEACE: Okay. I'd like to move
8 resolution No. 2006-200, along with the understanding if
9 the City of San Diego requests to give a presentation to
10 the Board at a future date, that they will be given that
11 opportunity.

12 COMMITTEE MEMBER WIGGINS: Second.

13 CHAIRPERSON MULÉ: We have a motion by Board
14 Member Peace, seconded by Member Wiggins.

15 Donnell, please call the roll.

16 SECRETARY DUCLO: Members Peace?

17 COMMITTEE MEMBER PEACE: Aye.

18 SECRETARY DUCLO: Wiggins?

19 COMMITTEE MEMBER WIGGINS: Aye.

20 SECRETARY DUCLO: Chair Mulé?

21 CHAIRPERSON MULÉ: Aye.

22 And we will put that on fiscal consent as well.

23 Thank you, Steve; thank you, Scott; thank you
24 Howard. Thank you, speakers, for coming here today. We
25 appreciate your making the trip.

1 Our next agenda item is Committee Item E, Board
2 Agenda Item 13.

3 DEPUTY DIRECTOR LEVENSON: Thank you, Madam
4 Chair. And while Bill Marciniak comes up, I'll introduce
5 this item.

6 We have four permit items before you. The first
7 one is Consideration of a Revised Full Solid Waste
8 Facilities Permit for Athens Services in Los Angeles
9 County. And Bill Marciniak from Permitting and
10 Enforcement Division will make that presentation.

11 CHAIRPERSON MULÉ: Good morning, Bill.

12 MR. MARCINIAK: Good morning, Madam Chair and
13 Committee members.

14 The Athens Services facility is located in
15 unincorporated Los Angeles County. However, the portion
16 of the facility for employee parking is located in the
17 City of Industry. It is owned and operated by Arakelian
18 Enterprises, Incorporated.

19 The proposed permit will allow for the facility
20 alterations and tonnage increases in three phases. In
21 order to proceed to the next phase, the County of Los
22 Angeles Department of Regional Planning must determine
23 that the operator is in compliance with all the conditions
24 of approval identified in the conditional use permit.

25 Proof of determination from the Department of

1 Regional Planning acceptable to the LEA shall be submitted
2 to the LEA before the LEA will allow the activity to be
3 implemented.

4 During Phase 1, tonnage at the facility would be
5 limited to 1,920 tons per day except on Sunday, when it's
6 limited to 200 tons a day.

7 During Phase 1 mitigation measures will be
8 implemented which will include a forced air ventilation
9 system and odor control devices, and a tipping floor will
10 be enclosed and expanded.

11 Upon completion of the mitigation measures of
12 Phase 1 the facility will be allowed to proceed to Phase 2
13 and accept 4,000 tons a day.

14 Twenty-four months after the effective date of
15 Phase 2 the facility will be allowed to proceed to Phase 3
16 and accept 5,000 tons a day. Construction of second MRF
17 is planned during Phase 3.

18 Proposed hours for receipt of refuse are 6 a.m.
19 to 8 p.m., Monday through Saturday, and 10 a.m. to 2 p.m.
20 on Sunday. Solid waste removal will be allowed 24 hours
21 per day, Monday through Saturday. Processing operations
22 will be allowed between the hours of 6 a.m. and 12 a.m.,
23 Monday through Friday, and between 6 a.m. and 6 p.m. on
24 Saturday.

25 Twenty-four hour per day processing on Monday

1 through Friday may be allowed during Phase 2 upon the
2 compliance determination of the Department of Regional
3 Planning and the acceptable submittal of determination by
4 Department of Regional Planning to the LEA.

5 The proposed permit also requires the operator to
6 perform at least one random load check for each 1,000 tons
7 of waste per day.

8 The LEA has certified the application package is
9 complete and correct and that the report of facility meets
10 the requirements of the California Code of Regulations.
11 The LEA has also determined that the permit revision is
12 consistent with and supported by existing California
13 Environmental Quality Act analysis.

14 Board staff has also reviewed the proposed permit
15 and supporting documentation and found them to be
16 acceptable.

17 In conclusion, Board staff recommends Option 1,
18 that the Board adopt Resolution 2006-204 for Solid Waste
19 Facility Permit No. 19-AA-0863.

20 Stan Uyehara of the LEA as well and Dwayne
21 McDonald of Athens Services and myself are available to
22 answer any questions you may have.

23 CHAIRPERSON MULÉ: Okay. Thank you, Bill.

24 Do we have any questions for either staff or the
25 applicant?

1 Board Member Peace.

2 COMMITTEE MEMBER PEACE: Okay. At your community
3 outreach meeting, they mentioned that people were
4 concerned about vectors, you know, the rats and stuff.

5 Can you tell me what's being done to control the
6 rat problem?

7 MR. MARCINIAK: They have a vector control
8 program at the facility. And I've been there twice so far
9 and I've looked at it. And we search around -- inside the
10 perimeter as well as the outside of the perimeter, and we
11 didn't -- I didn't find any, you know, evidence of rats
12 myself.

13 COMMITTEE MEMBER PEACE: Do you ever check at
14 night when the rats come out?

15 MR. MARCINIAK: Oh, we get there, you know,
16 usually before sunup.

17 COMMITTEE MEMBER PEACE: So it is still dark to
18 monitor it and check on it?

19 MR. MARCINIAK: Yeah, pretty -- I did see a
20 couple eyeballs through the bushes. But upon closer
21 examination found out it was a cat.

22 (Laughter.)

23 COMMITTEE MEMBER PEACE: Okay. Can you also tell
24 me about the traffic. It's not in the permit. Where is
25 it, the traffic limits?

1 MR. MARCINIAK: It's typically L.A. County's
2 policy not to include traffic limits in a permit because
3 they -- you know, they go by the tonnage. If you -- we --
4 the LEA can address --

5 COMMITTEE MEMBER PEACE: But haven't we seen a
6 lot of other permits from L.A. that have traffic limits in
7 them?

8 MR. MARCINIAK: None of them that I know of.

9 COMMITTEE MEMBER PEACE: Because it seems like we
10 get so few that don't have traffic limits in them.

11 MR. MARCINIAK: Well, this has been an ongoing
12 discussion with L.A. For 10, 15 years now. And they've
13 determined that they don't want to put traffic limits in
14 their permit.

15 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
16 Good morning. Mark de Bie with Permitting and
17 Inspections.

18 As opposed to Board staff trying to tell the
19 Committee what's in the mind of the LEA, perhaps Stan
20 could come up and explain how they approach permits and
21 the vehicle aspect.

22 COMMITTEE MEMBER PEACE: Um-hmm.

23 CHAIRPERSON MULÉ: Good morning. Please state
24 your name for the record.

25 MR. UYEHARA: Stan Uyehara, Los Angeles County

1 Local Enforcement Agency.

2 Yeah, it's been Los Angeles County LEA's --

3 COMMITTEE MEMBER WIGGINS: Could you bring your
4 mike down a little bit.

5 MR. UYEHARA: Excuse me.

6 It's been Los Angeles County LEA's policy not to
7 put a figure for the permitted traffic volume. We feel
8 that the tonnage limits also limit the traffic volume.

9 COMMITTEE MEMBER PEACE: Like in the CEQA
10 documents or anything else there isn't any limit on the
11 traffic?

12 MR. UYEHARA: No, normally there is.

13 COMMITTEE MEMBER PEACE: So there is. So if it
14 is in the CEQA documents anyway, then why is it so hard to
15 put it in the permit? Because you're not going -- so what
16 you're telling me is in the CEQA document -- because it
17 gives you the traffic account that you can't go over?

18 MR. UYEHARA: That's true.

19 COMMITTEE MEMBER PEACE: So why don't you put
20 that in the -- what's so hard about putting that in the
21 permit?

22 MR. UYEHARA: Well, we feel that the traffic
23 volume is based on certain assumptions such as average
24 tonnage carry per vehicle. If, for instance, in actuality
25 the vehicles contained less than the average tonnage that

1 was examined in the CEQA document, it's conceivable that
2 the facility could reach its permitted traffic volume
3 before it reached its permitted tonnage volume. And
4 therefore the vehicles that were going to go to the
5 facility to tip the waste would now have to go to another
6 facility and travel perhaps even longer distances.

7 So it seems to us that it would kind of defeat
8 the purpose of limiting the traffic.

9 COMMITTEE MEMBER PEACE: But if the CEQA
10 documents say you're not supposed to exceed the traffic
11 volume this much, and you're telling me that you do exceed
12 it then and -- even if it's based on the number of tons
13 you do exceed, well, what -- so what I'm understanding,
14 you don't put the traffic count in the permit, because
15 then if you go over what CEQA says, then it's not a permit
16 violation?

17 MR. UYEHARA: That would be true.

18 COMMITTEE MEMBER PEACE: Okay. So you can go
19 over what the CEQA has assessed for what that area could
20 handle -- you could go over that, but because you don't
21 put it in the permit, then it wouldn't be a permit
22 violation?

23 MR. UYEHARA: That would be true. I mean it's
24 conceivable that the traffic could go over the limit in
25 CEQA, but I've never actually --

1 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

2 Let me provide the Board -- the Committee with a
3 little bit of information. In the operating document for
4 this facility, there is a table that indicates the
5 expected number of vehicles that would be bringing in the
6 waste material for a given amount of tonnage. And as Bill
7 described, it goes through several phases.

8 At the last phase of 5,000 tons per day, there's
9 an expected vehicle count of just over a thousand vehicles
10 per day. It's staff's assessment that the environmental
11 documents supporting this particular request in the solid
12 waste facility permit actually analyze for the potential
13 impacts of 2,450 vehicles per day, because the number --
14 or the amount of tonnage was much larger than what's
15 actually being requested in this permit.

16 So it's I believe staff's point of view that at a
17 5,000 ton per day limit, it would be very difficult for
18 this facility to experience any numbers near the numbers
19 that were evaluated in CEQA. It's less than half is the
20 expected number.

21 COMMITTEE MEMBER PEACE: It says here they have
22 three shifts and there's like 335 people a shift. So
23 That's like a thousand cars a day. So in the vehicles per
24 day does not include all the employees, a thousand
25 employees?

1 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

2 At 5,000 tons per day the expected amount of
3 employee vehicles per day would be 425. And so that is
4 part of the 1,000 -- it's actually 1,059 is the expected.
5 Four hundred three -- or 463 collection vehicles; 169
6 transfer vehicles; 2 vehicles for maintenance; and then
7 employee vehicles, again 425, for a total of 1,059. The
8 CEQA document evaluated for 2,450 vehicles per day, and
9 that was at a much higher tonnage. I believe it was
10 8,500. And they're only requesting 5,000 at this time.

11 COMMITTEE MEMBER PEACE: Well, I guess just for
12 consistency sake it's always nice to see it in the permit,
13 just like everybody else puts it in the permit.

14 So putting the vehicle count in the permit is
15 obviously not mandatory.

16 Is then the tons per day -- is that mandatory?
17 What things are not mandatory in a permit? Do you have to
18 put in the tons per day? Do you have to put in the hours?

19 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

20 If I can take a shot at this. There's nothing
21 specifically in statute or in regulations that indicates
22 specific things that need to be included in the solid
23 waste facility permit. There's language both in statute
24 and regulation that describes the intent of conditions and
25 limits in the permit. And the intent is to include

1 conditions, limits in a permit to ensure that public
2 health, safety and the environment are protected.

3 And so I think given that direction in statute
4 and reg, you will find most permits attempt to identify
5 those aspects of the project that have the potential to
6 have an impact in those areas and to ensure that they're
7 limited to the point where they're not going beyond what
8 was evaluated for potential impact in the CEQA process.

9 COMMITTEE MEMBER PEACE: Well, I guess I still
10 don't understand why if it's in the CEQA document anyway
11 how many cars -- it can only have 2450 vehicle trips per
12 day or -- why that's so hard just to type that in the --
13 because they can't go -- they're not supposed to be going
14 over that.

15 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

16 It's the LEA's discretion to determine what is
17 included in a permit. We certainly have many LEAs that do
18 see a need to include vehicle limits in their permit. And
19 we have --

20 COMMITTEE MEMBER PEACE: You'd think of L.A.
21 County, of all places, where you can't even get down the
22 freeway, it's bumper to bumper, that they would surely
23 want to have a vehicle count.

24 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

25 Well, perhaps a perspective in regard to that --

1 and I don't want to be viewed as advocating one position
2 or another. Just giving the Committee the information.
3 This is a permit that would limit the number of vehicles
4 potentially going into the facility. It would not attempt
5 to limit the number of vehicles going on the freeway and
6 that may be passing the facility and going on to another
7 facility --

8 COMMITTEE MEMBER PEACE: No, what I meant was
9 just -- it was just amazing to me that L.A. County would
10 say that they didn't want to put a traffic count in there
11 with the traffic problems that they have in L.A.

12 DEPUTY DIRECTOR LEVENSON: Member Peace, I'd like
13 to tag on to this discussion a bit.

14 Certainly this is an issue that's come up before.
15 It will come up again in another item today. We have
16 spoken about Reg Package B -- Regulations Package B. We
17 just finished up the regulatory package for AB 1497 and
18 some of the related issues. And we do have a plan --
19 Howard's being a little careful here -- plan to bring
20 another regulatory package to you that would deal with
21 some of these permit related issues. And one of the
22 ideas -- one of the topics that could be included in that
23 package is the issue of what would the Board like to see
24 as requirements in a permit itself, as opposed to some of
25 the JTD or the other operating documents.

1 I'm being a little coy here because we had an
2 enormous resource -- resources committed to AB 1497
3 package, and I don't have a timeframe right now for when
4 that second package would start. But it's something that
5 we certainly could include in that list of topics for that
6 package.

7 COMMITTEE MEMBER PEACE: Well, it would be nice
8 to see -- you could look at this and see what it is
9 instead of having to go back through secondary documents
10 to try to find out what the limit is. It seems to me it
11 makes a little harder to enforce.

12 CHAIRPERSON MULÉ: Maybe what staff might be able
13 to do in the future is refer back to the CEQA analysis,
14 like you did, Mark, maybe include that in the item,
15 just --

16 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
17 Just to get clarity. Include a little additional
18 information about what the CEQA document may have included
19 or not included relative to just vehicles or --

20 CHAIRPERSON MULÉ: If they don't have a traffic
21 count in the permit, just include some of the CEQA
22 information so that the Committee does have that
23 background information.

24 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
25 Okay. We can look at that certainly, yes.

1 CHAIRPERSON MULÉ: Okay. Thank you.

2 Any other questions?

3 Do I have a motion?

4 COMMITTEE MEMBER PEACE: One other little

5 question that comes to the tons that's in the permit.

6 There's a little asterisk by the 5,000, it says, "See Item

7 5 on page 5." And I was just wondering, am I looking at

8 that wrong? Because I don't see Item 5 on page 5, how

9 that addresses the tons. It seems to me you're addressing

10 it on page 6, C1C. Am I just looking at this wrong?

11 DEPUTY DIRECTOR LEVENSON: Ms. Peace, could you

12 describe which page and line you see that on?

13 COMMITTEE MEMBER PEACE: Well, here, there's an

14 asterisk by the tons. It says, "Permitted tons" --

15 DEPUTY DIRECTOR LEVENSON: Is this in the permit

16 or --

17 COMMITTEE MEMBER PEACE: In the permit.

18 "Permitted tons, 5,000 tons per day." And then

19 there's a little asterisk. And if you looked where the

20 asterisk is, it says, "See Item 5 on page 5." So I looked

21 at Item 5 on page 5, and that to me does not say anything

22 about the tons. So I'm just wondering if --

23 MR. MARCINIAK: It's on the next page.

24 COMMITTEE MEMBER PEACE: Yeah, so it's not really

25 page 5, Item 5. It's really page 6, C1C?

1 MR. MARCINIAK: Well, it starts on page 5 and
2 continues. The E item, the 5 -- let's see -- the No. 5 --
3 Item No. 5 is all of -- it starts on page 5 for everything
4 that has an asterisk by it, for the hours of operation as
5 well as the tonnage. And then the Item No. 5 on page 5
6 continues on to page 6.

7 COMMITTEE MEMBER PEACE: I see, everything has an
8 asterisk by it. I see. Okay.

9 MR. MARCINIAK: I went over that with Stan
10 earlier when we were drafting all this up.

11 COMMITTEE MEMBER PEACE: Okay. Thanks.

12 CHAIRPERSON MULÉ: Okay. And in just looking
13 through the item, on page 13-7 it does include some
14 analysis -- CEQA analysis of the traffic. It looks like
15 that first paragraph on page 13-7. So I just wanted to
16 refer everyone to that.

17 Are there any other questions?

18 Do I have a motion for approval?

19 COMMITTEE MEMBER WIGGINS: I'll move adoption of
20 Resolution 2006-202.

21 CHAIRPERSON MULÉ: Do I have second?

22 I'll second that.

23 It was moved by Member Wiggins, seconded by
24 Member Mulé.

25 Call the roll, Donnell.

1 SECRETARY DUCLO: Members Peace?
2 COMMITTEE MEMBER PEACE: Aye.
3 SECRETARY DUCLO: Wiggins?
4 COMMITTEE MEMBER WIGGINS: Aye.
5 SECRETARY DUCLO: Chair Mulé?
6 CHAIRPERSON MULÉ: Aye.
7 We'll put that on consent.
8 Thank you, Bill. Thank you, everyone, for coming
9 up from Los Angeles to be here.
10 Our next Committee item is Committee Item F,
11 Board Agenda Item 14.
12 Howard.
13 DEPUTY DIRECTOR LEVENSON: Thank you.
14 This is Consideration of a Revised Full Solid
15 Waste Facilities Permit for the Greenwaste Recovery
16 Facility in Santa Clara County.
17 Mary Madison-Johnson would have been presenting
18 this. But, as you know, her husband had a heart attack.
19 And he's doing quite well. He's had double bypass and
20 he's home recovering. So everything looks like, under the
21 circumstance, going as well as can be.
22 But in Mary's absence Mark de Bie will give this
23 presentation.
24 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:
25 Thank you, Howard.

1 Good morning again. Mark de Bie with Permitting
2 and Inspection Branch.

3 The Greenwaste recovery facility is an existing
4 transfer/processing facility in the City of San Jose owned
5 and operated by the Greenwaste Recovery, Inc.

6 The proposed revised permit is to allow an
7 increase in the maximum amount of materials received and
8 processed on site from a current level of 934 tons per day
9 to a proposed level of 1,400 tons per day; and as well as
10 to increase the hours of operation from 6 a.m. to 10 p.m.,
11 seven days a week, to a new time of 6 a.m. to 12 a.m.,
12 seven days per week.

13 In light of the previous discussion on the last
14 item, I'll indicate that this permit does not include a
15 traffic limit. It does, however, include a statement that
16 reads as follows on page 1 of the permit:

17 "Traffic will be regulated by California Code of
18 Regulations, Title 14, Section 17418.3. Traffic flow in
19 to and on and out of the site shall be controlled to
20 prevent the following: A) Interference and safety
21 problems on adjacent public streets; B) on-site safety
22 hazards; and C) interference with site operations."

23 The permit will --

24 COMMITTEE MEMBER PEACE: So how is it controlled?
25 When they say they're going to control, what do they do to

1 control it? Give me some examples.

2 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

3 I'll need to defer to the LEA, because they wrote
4 that statement and they'll need to interpret it for you.

5 So would you like that now or after --

6 COMMITTEE MEMBER PEACE: No.

7 CHAIRPERSON MULÉ: Okay. Board Member Wiggins.

8 Excuse me, Mark.

9 Go ahead, Board Member Wiggins.

10 COMMITTEE MEMBER WIGGINS: So what are the
11 regulations under this code that you cited?

12 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

13 I don't have them in front of me.

14 COMMITTEE MEMBER WIGGINS: I mean you say that
15 controls the traffic. But what is it?

16 CHAIRPERSON MULÉ: Michael -- maybe Michael can
17 answer that.

18 Michael.

19 STAFF COUNSEL BLEDSOE: Madam Chair. Michael
20 Bledsoe from the Legal Office.

21 Essentially the section that is quoted here --
22 this is a paraphrase of our state minimum standard with
23 respect -- that applies to vehicle traffic at solid waste
24 facilities. So basically they've just paraphrased what
25 the state minimum standard is.

1 COMMITTEE MEMBER WIGGINS: Well, what is it?

2 STAFF COUNSEL BLEDSOE: Elliott will read it.

3 Thank you.

4 ACTING CHIEF COUNSEL BLOCK: I just pulled it up
5 on our computer.

6 CHAIRPERSON MULÉ: Thank you, Elliott.

7 Good morning. Thank you.

8 ACTING CHIEF COUNSEL BLOCK: Good morning.

9 Section -- Title 14, Section 17418.3 is entitled
10 "Traffic Control." And it states: "Traffic flow through
11 the facility shall be controlled to prevent the following:
12 1) Interference with or creation of a safety hazard on
13 adjacent public streets or roads; 2) on-site safety
14 hazards; and 3) interference with operations.

15 So as Michael indicated, they basically -- and
16 that's all it says. So they basically did just a shorter
17 version of that.

18 COMMITTEE MEMBER WIGGINS: Okay.

19 ACTING CHIEF COUNSEL BLOCK: And so in terms of
20 control, I mean the mechanism for control would be
21 inspections, potentially a notice and order if there's a
22 violation of that state minimum standard.

23 CHAIRPERSON MULÉ: Okay. Thank you.

24 Go ahead, Mark. You can continue. Thank you.

25 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

1 Thank you.

2 The permit will also include updates to the
3 transfer processing report.

4 The LEA as well as staff have made all the
5 required findings. And therefore staff recommends that
6 the Board adopt Resolution 2006-203, concurring in the
7 issuance of the revised solid waste facility permit.

8 And the LEA is here, and I believe
9 representatives from the operator are also present.

10 And that concludes staff's presentation. And if
11 you would like the LEA to talk further on the traffic,
12 they're sitting right here.

13 CHAIRPERSON MULÉ: Thank you, Mark.

14 Do we have any questions for either staff or the
15 LEA or the operator?

16 Board Member Peace.

17 COMMITTEE MEMBER PEACE: Yeah, I'd just like the
18 operator or the LEA or both to tell me how they're going
19 to control the traffic. What's included in that that it
20 will be controlled? How do you control that?

21 MR. FERRIER: Good morning, Board members. My
22 name is Dennis Ferrier. I'm the supervisor for the LEA
23 program in the City of San Jose.

24 Historically we've controlled it by enforcing
25 state minimum standards. Those standards were developed

1 to be performance standards. We have issued notices and
2 orders. We've gone into negotiated court settlements
3 based on documentation of those performance standards,
4 videotaping, photographing, field observation of what's
5 going on, on a regular, repeated basis. We've done that
6 with a number of facilities.

7 One of the problems that we have with putting a
8 specific number out of CEQA is, number 1, that's a peak
9 number. If we have a difficulty with a facility at a
10 number lower than that -- there's been some discussion
11 about this for quite some time -- that it creates an
12 entitlement in the permit. If we go up in front of a
13 judge for an injunction, it may effectively prevent us
14 from enforcing below that number. Most of the time these
15 facilities experience bottlenecks within the facility that
16 causes trucks to go out on to the public highway. We have
17 chosen instead to require this operator, particularly
18 since we did conduct an enforcement -- compliance action
19 prior to the application, to have a third-party
20 engineering company analyze the capacity of their
21 processing equipment on site to allow us to make some
22 reasonable assessment of whether they could perform
23 without queuing trucks, without backing people up on to
24 the street.

25 We dropped the tonnage from the analyzed tonnage

1 of 2,000 tons per day by 30 percent, to a maximum peak of
2 1400 tons a day.

3 We, like Los Angeles, we do look at it as tying
4 to the vehicle trips per day in the tonnage. But I would
5 back that up by saying we're out there on a regular basis.
6 It's not once a month. We're out there two, sometimes
7 three times a month, or more often if we're having a
8 problem. We did a negotiated settlement with this
9 facility that included their cooperation in going forward
10 with the capacity study. That was done by Cal Recovery.
11 We've used them before for composting facilities and other
12 facilities to evaluate the processing capacity where we
13 thought there might be a potential for off-site impacts.

14 But to answer your question, we do document it.
15 Our inspectors -- Mr. Arch Deacon is here today -- and
16 other inspectors have taken turns, from early in the
17 morning to late at night, photographing, documenting, and
18 chasing down issues related to traffic or other problems.
19 The traffic study proved to be a great benefit for the
20 operator as well as for everybody involved.

21 The processing bottlenecks that were identified,
22 the widening of gates resulted that prevents trucks from
23 making -- allows them to make turns more easily in to the
24 facility. There were a lot of good outcomes in that
25 process.

1 COMMITTEE MEMBER PEACE: Yeah, because apparently
2 you have some residents that are only 600 feet away.

3 MR. FERRIER: I'm sorry?

4 COMMITTEE MEMBER PEACE: Apparently you have
5 residents that are, you know, as close as 600 feet away.

6 MR. FERRIER: Yes, there are trailer parks there.

7 We did hold two community meetings over the
8 course of two years. We noticed it in three languages,
9 English, Vietnamese, and Spanish. We went out to a radius
10 of a thousand feet. We actually actively talked to the
11 people who had filed complaints in the past. We took
12 their concerns and we tried to evaluate those at the same
13 time the environmental review and capacity studies were
14 done.

15 At the last point -- the last meeting that we
16 had, we really didn't have any opposition to the project
17 at that point.

18 COMMITTEE MEMBER PEACE: So before this your
19 permitted traffic volume was 216 vehicles per day. So
20 what is it in the CEQA document? What can you allow?

21 MR. FERRIER: The project was analyzed for a
22 total tonnage of 2,000 tons per day. The number of
23 vehicle trips I believe was a thousand -- 1182. And that
24 was analyzed at 2,000 tons per day. This facility will be
25 limited to 1400 tons per day.

1 In addition to that, there is an inherent
2 difficulty with trying to go to court if you have a
3 situation where you're over a particular number. We don't
4 have somebody there that independently counts vehicles.
5 We would have to require some kind of traffic
6 classification or counter. And we haven't yet felt the
7 need to go to that point. It's basically installing
8 something at the gate.

9 One of the other aspects of that is if we were to
10 shut gates at facilities because they were exceeding that
11 number, it might make a more dangerous situation. In some
12 cases the impacts would not be avoided, because during the
13 operating hours the vehicles may still go down the roads,
14 creating the same impacts as though the facility were
15 open. So we would have to look at some control, if that
16 were the case, at the nearest controlling intersection
17 through, most likely, the local land-use permit by putting
18 something in maybe analogous to a weight scale on a
19 freeway saying, you know, the facility's closed for the
20 day, do not stop. Something along the line.

21 In some cases if these large trucks make a turn,
22 if a gate we're closed, it would severely impact the
23 public highway. So I don't know that the answer is at the
24 gate of the facility. I think that maybe we'd have to
25 look at that in a local land-use permit if we had that

1 kind of a problem.

2 Just one last comment. I think that these
3 problems are more typical at crowded inner-city locations.
4 We've not experienced these at our landfills. They have
5 long queuing roads going into them that in many cases are
6 over a quarter mile in length. But the inner-city areas
7 do tend to be congested and we do take a serious look at
8 the impacts to the people in the community and the
9 adjacent businesses.

10 CHAIRPERSON MULÉ: Any other questions?

11 COMMITTEE MEMBER PEACE: No, I guess just with
12 that reason I'm surprised that any permit for any facility
13 then would want to have a traffic volume in it.

14 MR. FERRIER: I think people weren't aware of
15 that. We've gone to Court on this a couple of times.
16 And, frankly, it surprised us that nobody brought that
17 point up. But in most cases we don't have to go that far.
18 People are coming in for negotiated settlements or trying
19 to move forward to meet the standards.

20 The state minimum standards for traffic, I think
21 there needs to be a greater focus on the performance
22 standard, that where you have problems at a gate, whether
23 you need additional scaling or you need to somehow
24 sequence your contractors coming in, that that's a good
25 way to approach it.

1 One of the problems that I think is inherent with
2 this number is that when you put a number into a permit,
3 there's nothing that would preclude them from bringing the
4 day's worth of trucks in in a short period of time. And
5 the waste industry tends to be delivering within windows
6 of times, not as though you're metering things evenly
7 throughout the course of the day.

8 So it's a little more complicated than just
9 putting a number in and saying, once you're over, we close
10 the gates. I wish it were that simple. But I think if we
11 did that, we would probably find we'd create as many
12 problems as we solve.

13 COMMITTEE MEMBER PEACE: Well, you're saying it's
14 complicated. But the majority of our permits have it in
15 there.

16 MR. FERRIER: We don't have traffic problems
17 typically. As we've gotten more and more recycling
18 facilities in the inner-city area, it has become more of a
19 problem. I think if you look at the large city areas -- I
20 know San Francisco, the peninsula coming down, there are
21 some small inner-city transfer stations -- those areas
22 tend to be fairly crowded with heavy trucks. And having a
23 third-party engineer familiar with bottlenecking and
24 capacity restrictions within a facility has been very
25 beneficial to tell us what needs to be improved within the

1 facility to prevent those trucks from moving through at
2 the rate that they're -- that CEQA says they can move
3 through at.

4 But if we were to put a number in there, if -- an
5 analogy would be like the annual tonnage number in a
6 facility permit that we used to have. The annual number
7 really wasn't very effective. It's not in any permits at
8 this point in time for tonnage. We go with a shorter
9 increment of time, a daily tonnage and so on.

10 But the number of vehicle trips is more difficult
11 to get at. And I think it -- it's something we've
12 recognized the need to focus on. And we've done
13 enforcement actions at two facilities strictly focusing on
14 queuing. They've been inner-city transfer stations. And
15 in both cases the process was what backed the trucks up
16 out on to the street, the inability to offload or the
17 inability to scale or move vehicles through the facility.
18 And identifying those limiting bottlenecks and making the
19 operator aware of them has helped a lot.

20 We're still there. We don't go away. I think
21 this operator has been focused on pretty diligently over
22 the past three years.

23 We are not adverse to putting a number in there.
24 I think we felt that it did cloud our case if we had to go
25 and make a case in court, and that in a discretionary

1 permit it could in our counsel's opinion create an
2 entitlement, that this operator's given so many tons a
3 day, he's given so many vehicles a day. It does not say
4 he's given so many vehicles in an hour or so on. That's
5 why we've decided to focus on the performance standard.
6 And it's very explicit. It's been on the books for many
7 years in all the facilities. And other than that, I think
8 it would take a little more -- it's a little more
9 complicated than just putting that single number in.

10 I think that --

11 CHAIRPERSON MULÉ: Thank you,

12 MR. FERRIER: Okay.

13 CHAIRPERSON MULÉ: Thank you, Dennis.

14 COMMITTEE MEMBER PEACE: So I definitely
15 understand what you're saying. It's just -- I just wonder
16 why all our facilities just don't put in a traffic count
17 then, because it would be easier, it would be easier. It
18 would be easier if they go to Court. Most of these
19 facilities are in lower income neighborhoods. It seems to
20 me not addressing the traffic volume could be raised as an
21 environmental justice issue.

22 But I'm just very glad that our staff will be
23 addressing this in a future regulation package.

24 CHAIRPERSON MULÉ: Any other questions?

25 Board member Wiggins?

1 COMMITTEE MEMBER WIGGINS: (Shakes head.)

2 CHAIRPERSON MULÉ: No.

3 Do I have a motion then?

4 COMMITTEE MEMBER WIGGINS: I move adoption of
5 Resolution 2006-203.

6 CHAIRPERSON MULÉ: Do I have a second?

7 COMMITTEE MEMBER WIGGINS: I'll second that.

8 It was moved by member Wiggins, seconded by
9 member Mulé.

10 Donnell, please call the roll.

11 SECRETARY DUCLO: Members Peace?

12 COMMITTEE MEMBER PEACE: Aye.

13 SECRETARY DUCLO: Wiggins?

14 Aye.

15 SECRETARY DUCLO: Chair Mulé?

16 CHAIRPERSON MULÉ: Aye.

17 Thank you. We'll put that one on consent.

18 And our next item is Committee Item G.

19 DEPUTY DIRECTOR LEVENSON: Okay. We have two
20 permit items left. They both have traffic limits in the
21 permit.

22 (Laughter.)

23 DEPUTY DIRECTOR LEVENSON: Item 15 is
24 Consideration of a Revised Full Solid Waste Facilities
25 Permit for the Heap's Peak Transfer Station in San

1 Bernardino County.

2 And Diane Ohiosumua will be making that
3 presentation.

4 CHAIRPERSON MULÉ: Good afternoon.

5 MS. OHIOSUMUA: Good afternoon.

6 The proposed permit would allow the operator to
7 increase the maximum daily tonnage from 300 to 600 tons
8 per day; to update the transfer processing report; to
9 modify the traffic volume; to increase the design
10 capacity; to increase the hours of operation; and to clean
11 up language in the findings section, the prohibition
12 section, self-monitoring section, enforcement agency
13 conditions, and permitted hours of operation sections of
14 the permit.

15 The Board finds that the LEA has made all the
16 necessary findings relevant to the permit.

17 At the time this item was prepared, Board staff
18 had determined all but two of the requirements for the
19 proposed permit were met. Now Board staff has made all of
20 the required findings, including the finding that the
21 transfer/processing report meets the requirements, and
22 that the environmental document is adequate. Therefore,
23 Board staff recommends that the Board adopt Solid Waste
24 Facility Permit Decision No. 2006-204, concurring with the
25 issuance of Solid Waste Facility Permit No. 36-AA-0152.

1 The LEA from San Bernardino County and the
2 operator are here to answer any of your questions.

3 That concludes the staff's presentation.

4 CHAIRPERSON MULÉ: Thank you, Diane.

5 Do we have any questions for staff or the LEA or
6 the operator? Thank you for coming up from San Bernardino
7 today to be with us.

8 Any questions?

9 COMMITTEE MEMBER PEACE: No questions.

10 CHAIRPERSON MULÉ: Board member Wiggins, do you
11 have any questions?

12 COMMITTEE MEMBER WIGGINS: No.

13 CHAIRPERSON MULÉ: No.

14 Do I have a motion then?

15 COMMITTEE MEMBER PEACE: I'd like to move
16 Resolution No. 2006-204 revised.

17 COMMITTEE MEMBER WIGGINS: Second.

18 CHAIRPERSON MULÉ: That was moved by Member
19 Peace, seconded by Member Wiggins.

20 Call the roll please.

21 ADMINISTRATIVE ASSISTANT KUMPULAINIEN: Members
22 Peace?

23 COMMITTEE MEMBER PEACE: Aye.

24 ADMINISTRATIVE ASSISTANT KUMPULAINIEN: Wiggins?

25 COMMITTEE MEMBER WIGGINS: Aye.

1 ADMINISTRATIVE ASSISTANT KUMPULAINIEN: Chair

2 Mulé?

3 CHAIRPERSON MULÉ: Aye.

4 And we'll put that one on consent.

5 And our final item of the day, Howard, is

6 Committee Item H.

7 DEPUTY DIRECTOR LEVENSON: Thank you.

8 This item is Consideration of a New Full Solid
9 Waste Facilities Permit for Chemical Waste Management,
10 Inc., Kettleman Hills Facility.

11 This will be presented by Virginia Humphreys.
12 She'll go over -- you may recall we had another item a
13 couple months ago on Kettleman Hills. And this is a
14 different unit at that overall facility.

15 CHAIRPERSON MULÉ: Okay. Good afternoon, Regina.

16 MS. HUMPHREYS: Good afternoon, Madam Chair and
17 Committee members.

18 Landfill B-17 is a new Class 2 and Class 3
19 landfill situated within the boundaries of the 1600 acre
20 Kettleman Hills facility site located six miles from
21 Kettleman City.

22 This new proposed landfill is one of several
23 active and closed sites within the facility's boundaries,
24 another of which is Landfill B-19, a Class 2-3 bioreactor
25 site in which the Board concurred on a revised solid waste

1 facility permit in July of this year.

2 Landfill B-17 is intended to eventually replace
3 the landfill portion of B-19 once it reaches capacity.
4 B-17 will operate under nearly identical permit
5 restrictions as B-19 and commence operations prior to B-19
6 reaching capacity. However, in no cases will the daily
7 tonnage of MSW and designated waste accepted at the
8 Kettleman Hills facility site be disposed of concurrently
9 at the B-17 and B-19 landfills or exceed 2,000 tons per
10 day.

11 The proposed new permit includes the following:

12 The operations of a new Class 2 designated waste
13 and Class 3 MSW of 2,000 tons per day.

14 A permitted traffic volume of 168 vehicles
15 hauling waste, cover soils, and ADC.

16 No daily limit on Class 2 soils that are received
17 for beneficial use such as daily or intermediate cover or
18 on waste received for the use of ADC. However, staff
19 would like to note that the amount received is limited by
20 the permitted traffic volume for the facility.

21 The receipt of waste Monday through Saturday from
22 8 a.m. to 6 p.m.

23 A defined disposal footprint of 62 acres.

24 A defined design capacity of 18.4 million cubic
25 yards.

1 A defined maximum elevation of 1,118 feet above
2 mean sea level and memorandum depth of 734 above sea
3 level.

4 An estimated time of closure between 2026 and
5 2030.

6 Additionally, Board staff has verified through
7 the operator representative, Bob Henry, that the Kings
8 Waste Recycling Authority will receive 25 cents per ton of
9 out-of-county MSW and designated waste as opposed to the
10 quarter of a cent per ton stated in the agenda and
11 obtained from the statement of overriding consideration.
12 The agenda will be revised to reflect that following the
13 Committee meeting.

14 The Kings County LEA has provided a finding that
15 the proposed solid waste facility permit is consistent
16 with and supported by the environmental impact report
17 produced for this site. Board staff has determined that
18 all requirements for the proposed permit have been
19 fulfilled. And, therefore, Board staff recommends Option
20 1, the adoption of Resolution 2006-214.

21 Bob Henry, Kettleman Hills Facility Director of
22 Operations and Lee Johnson with the Kings County LEA are
23 present today to answer any questions.

24 This concludes Board staff's presentation.

25 CHAIRPERSON MULÉ: Thank you.

1 Do we have questions?

2 Board Member Peace?

3 No.

4 Board Member Wiggins?

5 COMMITTEE MEMBER WIGGINS: The air quality is so
6 bad in this area, and it says here that the proposed
7 project would have a significant and unavoidable impact on
8 the air quality as it relates to ozone.

9 Can they do anything about preventing this?

10 CHAIRPERSON MULÉ: Does the operator or Mark --
11 somebody want to address that?

12 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

13 What I wanted to share with the Committee, as the
14 operator comes up, is that this facility was fully
15 evaluated, in CEQA process, EIR. And one of the last or
16 remaining impacts was to air quality associated with the
17 traffic. And that the intent of the CEQA process is to
18 try to find feasible mitigation measures to try to reduce
19 those impacts to less than significant. And it's our
20 understanding based on the review of the CEQA document
21 that there weren't any feasible mitigation measures
22 available to the operator to get them below significant
23 impacts. They certainly incorporated mitigation measures
24 to reduce the impacts. But they could not reduce them to
25 less than significant.

1 But I'll ask the operator's representative to
2 come up and maybe outline some of the mitigation measures
3 they've implemented to try to reduce the impact to air
4 quality.

5 COMMITTEE MEMBER WIGGINS: Well, so it's the
6 traffic and the trucks that come in?

7 PERMITTING AND INSPECTION BRANCH MANAGER de BIE:

8 My understanding is one of the major contributors
9 to the NOx emissions is from the traffic.

10 DEPUTY DIRECTOR LEVENSON: And while Mr. Henry's
11 coming up I'll just point out that there is a statement of
12 overriding considerations that was adopted by the county
13 board of supervisors that acknowledges that that was not
14 able to be mitigated below a level of significance, but
15 that there are other factors that they consider to
16 override that impact.

17 MR. HENRY: Bob Henry. I'm the Director of
18 Operations for the Kettleman Hills facility.

19 We are doing significant air monitoring under our
20 DTSC permit. We are doing -- we have two downwind
21 sampling stations, one upwind, and then a mobile station.
22 We're actually monitoring for VOCs, SVOCs, pesticides,
23 PCBs, and then for PM10. The valley was just actually
24 attainment for PM10.

25 Now, what we're talking about here is ozone --

1 I'm sorry.

2 COMMITTEE MEMBER WIGGINS: I don't know what
3 you're talking about. Can you just back up a little bit?

4 MR. HENRY: Yes, ma'am.

5 As far as the facility, you can have different
6 types of air emissions coming from it. We have a solid
7 waste landfill and then we have a hazardous waste landfill
8 at that location.

9 Under DTSC we have an air monitoring program we
10 just initiated in October of this year. What we're doing
11 there is we're monitoring for volatile organic compounds,
12 semi-volatile organic compounds, pesticides, PCBs, and
13 we're also measuring PM10 metals. So we are doing an
14 extensive air monitoring program at that location.

15 The valley has just been -- for PM10 it is
16 attainment now. It went from nonattainment to attainment.
17 What we're talking about as well though is NOx from the
18 vehicle emissions. There is a necessary overriding
19 consideration that was implemented by the Board because of
20 having to have a disposal opportunity for the -- or a
21 solid waste that's generated in the valley.

22 We're not going to be able to get around that.
23 That's why the statement of overriding consideration is
24 there.

25 What we have done is there is -- with our

1 Landfill Unit B-19 that I was here in July in front of you
2 with the bioreactor project, we're going to be combusting
3 the landfill gas that is generated from the solid waste
4 landfill. We'll be doing the same thing for the Landfill
5 Unit B-17. There are NOx that are going to be generated
6 from that combustion.

7 So you don't have an ability to have an
8 overriding consideration, such as in the San Joaquin
9 Valley under their air permits versus what is in South
10 Coast or something like that where you have offsets. And
11 I don't know if you're aware of those, but where you can
12 have cumulative offsets. So with the good deeds that the
13 combustion of the landfill gas, you would still have some
14 emissions from the NOx.

15 So I don't know if I'm helping. I hope so.

16 CHAIRPERSON MULE: Any other questions for staff
17 or the operator or the LEA?

18 Do I have a motion?

19 COMMITTEE MEMBER PEACE: It just mentioned that
20 with the NOx. They don't -- that's not going to go down
21 until the what, Air Board standards for trucks and stuff
22 are fully implemented and when --

23 MR. HENRY: That would be the only way.

24 COMMITTEE MEMBER PEACE: Right. That's the only
25 way it can go down. That's too bad we can't move those

1 up, but --

2 CHAIRPERSON MULÉ: Right.

3 Do I have a motion?

4 COMMITTEE MEMBER PEACE: I'd like to move

5 Resolution No. 2006-214.

6 CHAIRPERSON MULÉ: Do I have a second?

7 I'll second that.

8 It was moved by Member Peace, seconded by Member

9 Mulé.

10 Please call the roll Donnell.

11 SECRETARY DUCLO: Members Peace?

12 COMMITTEE MEMBER PEACE: Aye.

13 SECRETARY DUCLO: Wiggins?

14 COMMITTEE MEMBER WIGGINS: Nay.

15 SECRETARY DUCLO: Chair Mulé?

16 CHAIRPERSON MULÉ: Aye.

17 So that's 2-1. That will go to the full Board

18 for consideration.

19 Go ahead, Board Member Wiggins.

20 COMMITTEE MEMBER WIGGINS: Yeah. I'd like to ask

21 Howard Levenson to explain why the Potrero Hills was

22 pulled.

23 DEPUTY DIRECTOR LEVENSON: Excuse me, Ms.

24 Wiggins.

25 We received a new proposed permit and

1 accompanying package about a week ago Thursday. We'd
2 indicated to the operator and the LEA that we would try to
3 process that, if possible, and have that on the November
4 agenda if we could. But there were still some outstanding
5 questions as of late last week on the closure plan, and we
6 were unable to have the full findings that were needed in
7 order to come to you today.

8 Because the permit package was received in late
9 October, it provided us the 60-day clock, it takes us
10 through into late December. So we can agendize this for
11 the December Board meeting.

12 COMMITTEE MEMBER WIGGINS: I can't vote on it.

13 CHAIRPERSON MULÉ: Board Member Wiggins, can't we
14 convince you to stay just one more month, through the end
15 of the year?

16 No?

17 Are there any other public comments?

18 With that, this meeting is adjourned.

19 Thank you all for attending.

20 (Thereupon the California Integrated Waste
21 Management Board, Permitting and Enforcement
22 Committee meeting adjourned at 12:20 p.m.)

23

24

25

1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board,
7 Permitting and Enforcement Committee meeting was reported
8 in shorthand by me, James F. Peters, a Certified Shorthand
9 Reporter of the State of California, and thereafter
10 transcribed into typewriting.

11 I further certify that I am not of counsel or
12 attorney for any of the parties to said workshop nor in
13 any way interested in the outcome of said workshop.

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 21st day of November, 2006.

16

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23 JAMES F. PETERS, CSR, RPR
24 Certified Shorthand Reporter
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